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Mr Ellis Connolly
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
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By Email Only: pysubmissions@rba.gov.au

Dear Mr Connolly,

Re: Review of Merchant Card Payment Costs and Surcharging – Consultation Paper

The Law Institute of Victoria ('LIV') is Victoria's peak body for lawyers, representing more than 21,000 members of the Victorian legal profession, as well as individuals who work with them. The LIV has a long history of contributing to, shaping, and developing state and federal legislation and policies.

The LIV welcomes the opportunity to provide feedback to the Reserve Bank of Australia ('RBA') in response to its Merchant Card Payment Costs and Surcharging Consultation Paper (the 'Consultation Paper'). The LIV notes the RBA released the Consultation Paper following initial consultation in October 2024 (concerning the RBA's Review into Retail Payment Regulation) to examine the costs merchants face when accepting card payments and the RBA's surcharging framework.

This letter is informed by the views and expertise of members of the LIV's Competition & Consumer Law Committee and Business & Corporate Law Committee. These Committees comprise legal professionals with substantial experience in advising and representing both consumers and businesses across a range of matters. Their collective knowledge spans key areas of consumer protection, competition law, and business regulation, providing a robust foundation for the perspectives shared in this submission.

Executive Summary

The LIV considers that, overall, the proposed reform package is a meaningful step to promote competition, efficiency, and safety across the merchant payment landscape. However, the LIV urges the RBA to carefully consider inclusivity and equity of the reforms to ensure they deliver broad-based public benefits, particularly to the community and small business.

The LIV makes the following observations:

- Merchant fee transparency and simplification is a positive step but may not achieve intended competition outcomes without enforceable mechanisms. The RBA should consider further regulatory measures to address regular fee growth and market power imbalances.
- In-principle, a requirement for a credit/debit card acceptance service ('Acquirer') to publish merchants' cost of card acceptance enhances transparency and supports merchant decision-making. However, these benefits are only realised if the data is clear and accessible, particularly for small businesses.
- The RBA should conduct a public interest assessment before removing the exemption for taxi fares given sector-specific constraints such as legacy systems with limited digital infrastructure and historical regulatory fare controls and public service obligations.
- Least cost-routing (LCR), where there is capacity to assess individual transactions at point-of-sale to determine the cheapest network to process the transaction, plays an important role in reducing merchant fees. However, the current regulatory environment does not fully leverage LCR potential. LCR uptake could be encouraged by:
    - Mandating dynamic LCR and extending coverage to mobile wallets and online gateways, and
    - Expanding the *Payment Systems (Regulation) Act 1988* (Cth) to include digital wallets.
- The Payment Services Board's (PSB) preferred package aligns with its overall policy objectives, but implementing stronger enforcement of transparency measures and tailored support for small merchants beyond what the PSB suggests is likely to produce better public outcomes.
- The PSB should consider additional evidence on merchant behaviour and sectoral impacts before finalising the reforms to produce a more evidence-based solution.
- The PSB's proposed timeline with expected implementation by 1 July 2026 is broadly appropriate. However, a phased rollout with clear milestones would better support industry readiness and minimise disruption particularly for smaller stakeholders, such as small business.

Whilst the proposed reforms are a step in the right direction, the LIV encourages the RBA and the PSB to refine the proposals with a focus on inclusion, enforceability and sector-specific impacts to ensure the reforms deliver equitable and sustainable improvements to Australia's payments system.

General Comments

The LIV understands that the RBA has regulations in place to limit surcharging to the reasonable cost of card acceptance. In addition, to assist merchants, the regulations also prohibit card schemes (such as Visa or Mastercard) from imposing blanket "no-surcharge" rules on merchants to enable merchants to pass on a reasonable cost to cover interchange fees (unlike in other jurisdictions, such as the United Kingdom and the European Union).

The LIV welcomes the RBA removing the prohibition on a card scheme to impose a “no-surcharge” rule, and its intention to seek to improve efficiency, competition and safety in interchange programs. However, the LIV suggests that in addition to the main objectives, the RBA and PSB consider overall equity and fairness across merchant types, in particular small businesses.

Response to the Consultation Questions

Q1: Would removing surcharging on designated card networks best support the RBA’s objectives to promote the public interest through improving competition, efficiency and safety in the payments system?

The LIV partially supports the RBA’s proposal to remove surcharging on designated card networks as a targeted reform that advances the core objectives of competition, efficiency and safety within the payments system. However, the LIV notes that the issue should be considered holistically, with careful attention to how reforms may affect consumers and the impact to participants across the broader payment ecosystem.

The LIV notes the proposed reform seeks to flip the current policy’s intended behavioural impact. The current policy allows merchants to pass interchange fees to consumers via a surcharge and aims to influence consumer behaviour by changing consumer payment preferences (for example, via cash payment). The proposed reform flips this onus, prohibiting surcharging to incentivise merchants to seek lower-cost PSPs and foster competition to reduce interchange fees.[1] The LIV observes that shifts in consumer behaviour and merchant practices have undermined the policy intent behind surcharging – for example, many consumers find the ease and efficiency of tap-and-go and mobile wallets to outweigh

[1] Dr Ann Waldrop, ‘Dealing with Excess: Regulatory Perspectives on Surcharging for Payment’ (2017) 36(1) *University of Queensland Law Journal* 100.

benefits of paying in cash.[2] Surcharging is also a source of consumer confusion and financial vulnerability, particularly "drip pricing" which obscures the true cost of transactions.

The LIV considers that removing surcharges would likely:

a) simplify the payment experience and shift the efficiency incentive to merchants, who are better positioned to assess and respond to cost differentials,[3] and

b) enhance price clarity, reduce risk of unexpected charges and align with consumer expectations for fairness and consistency in digital payments.

The LIV recognises concerns about potential merchant responses to removing their ability to surcharge, particularly the risk that merchants may seek to offset their loss of surcharge revenue by increasing their base prices which would reduce price transparency. The LIV acknowledges that the RBA's broader reform agenda is expected to mitigate these risks, for example, the proposed requirement for card schemes and large acquirers to publish detailed fee data, including interchange and scheme fees. Nonetheless, the LIV remains cautious about the potential for unintended consequences. For this reason, the LIV encourages a holistic and consultative approach to implementation, ensuring that reforms are responsive to market dynamics and equitable across all stakeholders in the payments ecosystem.

Additional Public Interest Considerations

Noting the RBA has framed the consultation with the stated intention being to achieve better public interest outcomes through competition, efficiency, and safety, The LIV wishes to put forward additional public interest considerations that the RBA may wish to consider. The LIV suggests that merchant equity and fairness, consumer accessibility and international alignment should also carry weight.

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[2] Fumiko Hayashi, 'Discounts and Surcharges: Implications for Consumer Payment Choice' (Briefing Paper, June 2012) <https://www.kansascityfed.org/documents/693/briefings-psr-briefingjune2012.pdf>. *See* also Reserve Bank of Australia, 'Review of Merchant Card Payment Costs and Surcharging' (Consultation paper, 15 July 2025) <https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/2025-07/pdf/review-of-merchant-card-payment-costs-and-surcharging.pdf?v=2025-07-14>.

[3] Hélène Bourguignon, Renato Gomes and Jean Tirole 'Shrouded Transaction Costs: Must-take Cards, Discounts and Surcharges' <https://www.tse-fr.eu/sites/default/files/TSE/documents/doc/by/tirole/bourguignon_gomes_tirole_april_2018.pdf>.

Merchant Equity and Fairness

The LIV suggest that equity and fairness across all merchant types should be considered as one of the main public interest considerations when weighing reform options. The LIV considers that the current payments framework disproportionately impacts small and micro businesses who often pay higher merchant service fees and lack bargaining power to negotiate better rates. Consequently, the RBA should give weight to reforms that will assist and help level the playing field across all merchant types, for example, reducing interchange fee caps, enhancing fee transparency, and promoting LCR.

Further, the LIV considers that the RBA must ensure small business are appropriately informed and educated about any planned reform to ensure there are no misconceptions about absorbing increased transaction costs. Without proper communication and education about proposed reforms, misconceptions may risk merchants indirectly passing interchange costs to consumers through increased advertised prices (as noted on page 10 of the Consultation Paper). This would undermine transparency and ultimately disadvantages consumers.

Consumer Accessibility

As Australia transitions toward a cashless economy, ensuring that digital payment systems are inclusive and accessible becomes a matter of public interest. Any reform that seeks to eliminate surcharging must be accompanied by measures that promote transparency, affordability and equitable access to payment services, ensuring that no consumer is inadvertently disadvantaged by the structural outcomes of reform. As such, the LIV strongly advocates for consumer accessibility to be included and form part of the public interest dimension that the RBA should consider when proposing to remove surcharges and reducing payment costs. For example, if reforms lead to merchants embedding transaction costs into advertised prices, then consumers face opaque pricing structures that disproportionately affect those who rely on debit or low-cost payment methods. Accessibility requires that consumers not only have secure and efficient payment options, but also clear, fair and inclusive pricing.

International Alignment

The LIV submits that the RBA treat international alignment as a distinct public interest consideration. Aligning Australia's regulatory framework with global practices, such as the surcharge bans in the United Kingdom and European Union, enhances Australia's reputation as a fair, modern and globally integrated financial system and facilitates smoother cross-border commerce and interoperability in payment technologies.

Digital transactions increasingly transcend national boundaries. Regulatory divergence can create friction for international businesses and consumers which undermines Australia's competitiveness in the global marketplace. Moreover, aligning with jurisdictions that have implemented surcharge bans provides a tested policy blueprint that balances merchant viability with consumer protection.[4] It also signals Australia's commitment to harmonised standards in financial services, which is particularly important in the context of international trade agreements and digital economy partnerships.

Q2: Do the proposed changes to interchange regulation promote the public interest by improving competition and efficiency in the payments system?

The LIV agrees that the proposed changes to interchange regulation promote the public interest by improving competition and efficiency in the payments system and that current interchange fees are excessive and outdated. This is particularly true given the rapid evolution of digital payment technologies and the post-COVID acceleration of digital transactions.

From a public interest perspective, the reforms aim to create a more level playing field by shifting competitive pressures away from consumer payment preferences and toward the pricing strategies of PSPs. This encourages PSPs to compete on price and service quality, rather than relying on entrenched consumer habits or opaque fee structures. Introducing mandatory transparency measures, such as requiring schemes and acquirers to publish fee data, is also a significant step. It empowers merchants with clearer information and enables them to make informed decisions and negotiate better terms. This fosters price competition and contributes to a more efficient and competitive payments ecosystem.

However, the LIV urges caution and a more holistic approach to reform. Whilst the proposals aim to enhance efficiency and competition, several risks and unintended consequences must be addressed to

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[4] Several jurisdictions have successfully implemented bans or strict limitations on credit card surcharging, often as part of broader consumer protection and pricing transparency reforms. These include:

- The United Kingdom: Since January 2018, the UK has banned surcharges on consumer card payments under the Payment Services Regulations 2017, aligning with EU rules prior to Brexit. This applies to both credit and debit card transactions.
- The European Union: The EU's Second Payment Services Directive (PSD2), which came into effect in January 2018, prohibits surcharging for consumer payments made with cards that are regulated under the Interchange Fee Regulation (IFR), including Visa and Mastercard credit and debit cards.
- The United States (selected states): Although surcharging is legal at the federal level, several states have banned or restricted the practice. As of 2025, California, Connecticut, Maine, and Massachusetts have laws prohibiting credit card surcharges. Other states like New York, New Jersey, and South Dakota allow surcharging but cap it at the merchant's actual cost of acceptance.

These jurisdictions demonstrate that surcharge bans can be implemented successfully, often with accompanying measures to ensure pricing transparency and merchant cost recovery through other means. Their experiences offer valuable policy models for Australia as it considers aligning its payments regulation with international best practices.

ensure the reforms do not undermine their own objectives. The LIV acknowledges the concerns raised by key industry stakeholders, including the Council of Small Business Organisations Australia (COSBOA) and the Australian Association of Convenience Stores (AACS). In light of these concerns, the LIV submits that whilst the RBA's reforms advance important public interest goals, they must be carefully considered to ensure equitable outcomes across the merchant spectrum. This includes:

- Preserving reasonable cost recovery mechanisms for small businesses;
- Mandating dynamic least-cost routing to ensure fair access to lower-cost payment options;
- Closely monitoring the downstream effects of interchange fee reductions on innovation, security and consumer protection.

Q3: Are there further considerations for smaller issuers that the RBA should take into account to enhance competition and efficiency in the payments system?

The LIV submits that RBA must consider the impact on smaller card issuers, including credit unions, mutual banks, regional banks and specialist non-bank financial institutions. These entities play a vital role in maintaining diversity, accessibility and competition within the Australia's payments ecosystem. However, they are structurally more vulnerable to revenue shocks and regulatory burdens than their larger counterparts.

Smaller issuers often rely more heavily on interchange fees as a core revenue stream to support essential services such as fraud prevention, cybersecurity and customer support. Unlike major banks, they lack the scale to cross-subsidise these functions through broader financial product offerings. A uniform reduction in interchange fee caps, without appropriate safeguards, risks undermining their financial sustainability and, by extension, their capacity to compete effectively in the market.

To ensure that the reforms promote both competition and efficiency, the LIV recommends that the RBA consider the following measures:

- Introducing a differentiated interchange cap or transitional arrangements for smaller issuers to allow for a more gradual adjustment to preserve their operational viability (for example, to explore other revenue streams and options to offset loss in interchange fees).
- Establishing targeted support mechanisms such as co-investment in fraud mitigation technologies or access to innovation grants to ensure that smaller issuers can continue to invest in secure and competitive payment solutions.

- Requiring or incentivising the issuance of Dual-Network Debit Cards to ensure that small issuers do not inadvertently limit merchant access to least-cost routing, thereby supporting broader system efficiency.
- Providing regulatory guidance, standardised templates and phased implementation timelines to reduce the administrative burden of new transparency requirements on smaller institutions.
- Committing to ongoing monitoring of the reforms' impact on innovation, issuer diversity and market concentration, with a view to recalibrating policy settings if smaller issuers are disproportionately affected.

In the absence of such measures, there is a risk that the reforms, whilst well-intentioned, may entrench the market dominance of larger institutions and reduce the diversity of offerings available to consumers. A balanced and inclusive regulatory approach is essential to ensure that the benefits of competition and efficiency are realised across the full spectrum of market participants.

Q4: Do the proposed changes to the net compensation provisions effectively achieve the RBA's objectives and promote the public interest? Will Australian issuers sponsored by overseas entities be able to comply with the changes?

The LIV agrees that the RBA's proposed changes to the net compensation provisions, as outlined in its July 2025 consultation paper, achieve the RBA's objectives and promote the public interest.

The LIV believes that the RBA's objectives will be achieved because the proposed reforms are targeted towards strengthening the regulatory framework. Extending the net compensation prohibition to international transactions and to Australian issuers sponsored by offshore scheme participants ensures that all relevant parties within the Australian payment system are subject to consistent regulatory oversight. In addition, broadening the definition of net compensation to include indirect and non-cash benefits addresses potential loopholes that could undermine the effectiveness of interchange fee regulation. Enhanced reporting requirements for scheme fees and issuer benefits will also reduce information irregularity and support more informed decision-making by merchants and PSPs. In addition, the proposed shift from a quasi-cash to an accrual accounting basis for net compensation calculations aligns with standard financial reporting practices and reduces manual processing, thereby lowering compliance costs for issuers.

The LIV does not offer a definitive position on whether Australian issuers sponsored by overseas entities will be able to comply with the proposed regulatory changes. However, the LIV notes that the regulatory

framework governing Australian issuers applies and should continue to apply irrespective of their sponsorship arrangements. Australian entities, regardless of foreign affiliation, must remain subject to domestic regulatory oversight, including obligations under the Australian Consumer Law and relevant financial services legislation. Regulators must retain capacity to investigate and take enforcement action against any issuer that engages in misleading, deceptive, or unconscionable conduct. This ensures that compliance expectations are upheld consistently across the market and that investor protections are not undermined by cross-border corporate structures.

Q5: Does the proposal for card networks to publish aggregate wholesale fee data achieve the RBA's objectives of improving competition and efficiency among the card networks? Does the proposal adequately balance the information needs of the market with commercial concerns?

The LIV welcomes the RBA's proposal for card networks to publish aggregate wholesale fee data as part of its broader reform agenda aimed at enhancing competition and efficiency in the payments system. However, the proposal may fall short of achieving the RBA's stated objectives by entrenching existing market imbalances (particularly to the detriment of SMEs). It may also fail to meaningfully address the structural opacity and complexity inherent in scheme fee schedules and merchant pricing.

Publishing aggregate data on interchange and scheme fees is a good, but modest, step forward as the data itself is not detailed enough to empower merchants to make informed decisions. By its nature, aggregate reporting obscures the significant variability in fee structures across transaction types, merchant categories and card products. The proposal risks falling short of intended outcomes unless merchants are able to see transaction costs for individual merchants to accurately compare fees and determine which PSP offers the best pricing structure. For example, publishing average costs can lead smaller merchants to understand that an acquirer's fees may be lower than what they realistically are, as the average cost per transactions could be reduced by large merchants who achieve a better fee due to the transaction volume they provide.

This issue is compounded by tiered pricing and bespoke arrangements offered by large acquirers and card schemes to high-volume merchants. Aggregate disclosures do not reflect these arrangements and leave small merchants unable to benchmark their costs to negotiate effectively. The RBA's reliance on voluntary industry cooperation to simplify fee schedules further undermines the enforceability and practical impact of the proposal.

It cannot be assumed that increased transparency will stimulate competition amongst card networks. Such an assumption may overlook entrenched market dominance of Visa and Mastercard, who

collectively control the majority of Australian card transactions. These networks face little pressure to reduce fees in response to aggregate disclosures, particularly when smaller merchants lack the leverage to switch providers or demand better terms. In contrast, jurisdictions such as New Zealand have preserved competitive tension through targeted regulation of foreign-issued cards rather than standardising domestic fee disclosures. This approach arguably better addresses market concentration.

Finally, the RBA's expectation that transparency will lead to efficiency gains by enabling merchants to "shop around" does not reflect the operational realities faced by SMEs. Most operate under blended pricing models offered by acquirers, which obscure the true cost of individual card transactions. Without enforceable disclosure of merchant-specific cost of acceptance, the proposal does little to disrupt the status quo or deliver meaningful efficiency improvements.

Q6: Does the proposal for card networks to work with industry to reduce the complexity and improve the transparency of their scheme fee schedules enhance the competitiveness and efficiency of the card payments system?

The RBA has proposed that card networks collaborate with PSPs to reduce the complexity and improve the transparency of scheme fee schedules. This initiative is framed as a non-prescriptive expectation, rather than a regulatory mandate, and is part of a broader reform package aimed at improving competition and efficiency in the payments system.

The LIV suggests the RBA consider the following issues when considering overall fee complexity.

Complexity as a Barrier to Competition

Current scheme fee schedules include over 100 fee categories. Some transactions incur more than a dozen separate fees. These fees are often misunderstood, even by large financial institutions, let alone SMEs. A lack of standardisation across networks further compounds the problem and makes it difficult for merchants and PSPs to compare offerings or negotiate better terms. This complexity acts as a barrier to entry for smaller PSPs and merchants who lack the resources to decipher and manage these costs. It also entrenches the market power of Visa and Mastercard. In contrast, EFTPOS has only two scheme fees and shows that simplicity is possible and beneficial for transparency and cost control

Transparency Without Enforcement Is Insufficient

The RBA's proposal relies on card networks voluntarily submitting a plan by September 2026 to improve transparency and reduce complexity. However, past experience suggests that voluntary cooperation

can yield limited results. Scheme fee hierarchies provided by networks can span hundreds of pages and are often inaccessible or incomprehensible to merchants. Moreover, the RBA has acknowledged that it cannot publish data on individual card network fees due to lack of consent from the networks, citing commercial sensitivity. The proposal risks falling short of its intended public interest outcomes without enforceable disclosure requirements and standardised reporting formats.

Efficiency Gains Are Contingent on Structural Reform

Efficiency in the payments system relies on merchants understanding the costs structure which is difficult under current arrangements. LCR is a key mechanism to promote efficiency and simplified costs. However, PSPs struggle to apply the correct fees in real time which impairs LCR effectiveness. Simplifying fee schedules and improving transparency could support better routing decisions and promote LCR. This likely requires regulatory intervention, rather than industry cooperation, to standardise fee categories, mandate clear disclosures, and ensure merchants can access information.

Q7: Does the proposed expectation on scheme fees achieve the RBA's objectives of competition and efficiency in the payments system?

The RBA's proposed expectations on scheme fees partially achieve its objectives of promoting competition and efficiency in the payments system. However, the expectations are not binding and may have limited impact without enforceable mechanisms. Smaller merchants, in particular, may continue to face barriers due to limited bargaining power and the complexity of fee structures, which can dilute the intended competitive effects. Additionally, the absence of direct controls on fee levels may allow continued upward pressure on scheme fees, undermining efficiency gains.

Q8: Should the PSB consider further regulatory measures in relation to the level of scheme fees to promote competition and efficiency in the payments system?

Yes, the LIV considers the PSB should consider further regulatory measures in relation to the level of scheme fees to promote competition and efficiency in the payments system. The LIV highlights that evidence from the consultation process indicates that since surcharging was introduced scheme fees have increased and contribute to merchant service costs, particularly for small businesses. The current voluntary framework does not prevent schemes from introducing new or complex fee structures that may obscure true costs or circumvent existing interchange fee regulations. Accordingly, the PSB should explore enforceable regulatory options, such as caps on scheme fees or mandatory cost-based justifications for fee increases. These measures would complement transparency initiatives and provide stronger incentives for schemes to align pricing with efficiency and competitive outcomes.

Q9: Does the proposed requirement for acquirers to publish their merchants' cost of acceptance enhance competition and efficiency by helping merchants search for a better plan?

Yes, the proposed requirement for acquirers to publish their merchants' cost of acceptance is likely to enhance competition and efficiency in the payments system by improving price transparency and empowering merchants to make more informed decisions. A lack of publicly available information on merchant fees has historically made it difficult for merchants to compare pricing across providers, particularly given the complexity of pricing plans and the prevalence of confidential, negotiated rates.

A requirement to publish average costs of acceptance, broken down by merchant size and card type, may reduce information asymmetry and support merchants in identifying whether they are receiving competitive rates. Transparency may also place downward pressure on merchant service fees by encouraging merchants to negotiate better terms or switch providers, thereby fostering greater competition amongst acquirers. However, it is important to note that transparency effectiveness will depend on the clarity, granularity and accessibility of published data.

Q10: Does the proposal to amend the cost of acceptance reporting on merchant statements to include a breakdown for domestic and international cards promote competition by helping merchants receive more information about the fees they pay? Is there a public interest case to exempt taxi fares from this requirement?

Yes, the proposal to amend cost of acceptance reporting to include a breakdown for domestic and international cards does promote competition by enhancing fee transparency. International card transactions typically attract higher fees, and separating these from domestic card costs allows merchants to better understand the drivers of their payment acceptance costs. This improved visibility empowers merchants to assess whether their pricing is competitive and to seek better terms or switch providers. This fosters competitive tension amongst acquirers and payment service providers

However, the proposal to remove the existing exemption for taxi fares from this reporting requirement raises questions about proportionality and public interest. Taxi operators often operate under legacy systems with limited digital infrastructure and may face practical challenges in implementing detailed reporting. Additionally, the sector has historically been subject to regulatory fare controls and public service obligations, which may justify tailored treatment. Whilst uniform transparency is desirable, a public interest case could be made for maintaining the exemption if compliance costs for taxi operators outweigh the competitive benefits, particularly where consumer choice is limited and pricing is regulated.

Q11: Are there any changes that should be made to the RBA's existing industry expectation on LCR implementation to improve competition and efficiency in the debit card market?

Yes, changes should be made to the RBA's existing industry expectations on LCR implementation to improve competition and efficiency in the debit card market. The RBA has made progress in encouraging LCR availability, but gaps remain in merchant uptake and the sophistication of routing practices. The LIV consider there are three matters for consideration:

a) The current expectation allows (and consequently encourages) basic LCR models, such as binary or threshold routing, which do not optimise cost savings across all transactions. The RBA has identified that very few providers offer dynamic LCR, which routes each transaction through the lowest-cost network in real time. Mandating dynamic LCR would enhance competitive pressure amongst debit networks and deliver greater cost savings to merchants.

b) LCR is available to a majority of merchants but only enabled for a minority of transactions. This disparity suggests that acquirers are not sufficiently promoting or facilitating LCR activation. A formal regulatory requirement for acquirers to enable LCR by default, with opt-out provisions, would likely increase adoption and improve market efficiency.

c) LCR for mobile wallet and online transactions remains underdeveloped due to limitations in the RBA's regulatory remit. Expanding the *Payment Systems (Regulation) Act 1998* (Cth) to include digital wallets and gateways would allow the RBA to enforce LCR expectations across all transaction environments.

Q12: Does the PSB's preferred package meet its objectives of competition, efficiency and safety in the payments system? Are there any variations to the package that the PSB should consider that would yield higher net public benefits? Is there any additional evidence that the RBA should consider before finalising its decision?

The PSB's preferred package broadly meets its objectives of promoting competition, efficiency, and safety in the payments system. The proposed reforms, including removing "no-surcharge" prohibitions, reductions in interchange fee caps, enhanced transparency of scheme and merchant fees, and strengthened LCR expectations, are well-targeted to reduce payment acceptance costs and improve market dynamics.

However, there are variations that could yield higher net public benefits:

- Mandating dynamic LCR rather than relying on voluntary implementation would enhance cost savings and competitive pressure in the debit card market.
- Extending regulatory coverage to mobile wallets and online gateways would ensure consistency across payment channels and prevent circumvention of LCR and fee transparency reforms.
- Introducing enforceable standards for scheme fee disclosures could strengthen compliance and reduce the risk of superficial transparency.

Before finalising its decision, the RBA should consider additional evidence on:

- Merchant behavioural responses to surcharge removal, particularly among small businesses.
- Pass-through of fee reductions from PSPs to merchants, especially under bundled pricing models.
- Impact on consumer pricing and whether merchants absorb or redistribute acceptance costs post-reform.
- Sector-specific effects, including whether certain industries (e.g. hospitality, transport) face disproportionate burdens or require tailored transitional support.

Q13: What is your feedback on the proposed implementation timeline for these reforms?

The proposed implementation timeline for the RBA's reforms is broadly appropriate but could benefit from greater clarity and phased structuring to ensure effective industry transition and allow sufficient time for public understanding and engagement. However, given the scope and complexity of the reforms, including the removal of surcharging, reductions in interchange fee caps, and new transparency obligations, there is a case for a phased implementation.

The LIV suggests a phased approach could include:

- Phase 1 (Short-term): Introduction of transparency measures and publish scheme/acquirer fee data to allow market participants to prepare.
- Phase 2 (Mid-term): Implement interchange fee caps and LCR enhancements, allowing acquirers and schemes time to adjust pricing models.

- Phase 3 (Long-term): Enforce surcharging bans and any legislative changes, ensuring consumer and merchant education campaigns are in place.

This phased approach would mitigate disruption, especially for small merchants and acquirers with limited compliance capacity and allow for monitoring of unintended consequences.

Q14: Do the draft standards in Appendix D achieve the intended policy objectives? Are there factors that have not been properly addressed or considered in the drafting of the proposed standards?

The draft standards in Appendix D broadly achieve the RBA's intended policy objectives of promoting competition, efficiency, and safety in the payments system. The proposed amendments to Standards No. 1, 2 and 3 of 2016 reflect a sound approach to longstanding issues in card payment costs, including interchange fees, opaque scheme fees, and limited merchant visibility over acceptance costs.

Key reforms, such as lowering interchange caps, removing the prohibition on "no-surcharge" rules, and mandating transparency in scheme and merchant fees, are well-targeted to reduce payment costs, improve price signals and enhance competitive pressure among payment service providers and card networks. However, several factors warrant further consideration:

1. **Dynamic Least-Cost Routing (LCR)**:
    - The draft standards do not mandate dynamic LCR, which would allow real-time routing of debit transactions through the lowest-cost network. This omission limits the potential efficiency gains and competitive pressure on debit schemes.
2. **Digital Wallets and Online Gateways**:
    - The standards do not extend LCR or transparency obligations to mobile wallets and online payment gateways, which are increasingly dominant in consumer transactions. This regulatory gap may allow cost inefficiencies to persist in digital channels.
3. **Small Merchant Support**:
    - Whilst the reforms are expected to benefit small merchants overall, the standards do not include tailored transitional support or simplified compliance pathways for smaller businesses that may face disproportionate implementation burdens.

4. **Enforceability of Transparency Measures**:

    - The standards rely on expectations rather than enforceable obligations for scheme fee disclosures and simplification. Stronger compliance mechanisms may be needed to ensure meaningful transparency and prevent superficial adherence.

5. **Monitoring and Evaluation Framework**:

    - There is limited detail on how the RBA will monitor the impact of the reforms post-implementation. A formal evaluation framework would help assess whether the standards are delivering net public benefits and allow for timely adjustments.

However, the LIV notes that targeted enhancements, particularly around LCR, digital channels and enforceability, would strengthen their effectiveness and ensure the reforms deliver optimal outcomes across the payments ecosystem.

We would welcome the opportunity to discuss the matters highlighted in this letter in detail. If you have any further queries, or if you or your office would like to discuss this matter further, please contact Fernando Gallieto, Legal Policy Officer and Contracts Lawyer, on (03) 9607 9333 or at fgallieto@liv.asn.au.

Sincerely yours,

Adam Awty
Chief Executive