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Dear Dr Richards

**APCA Submission to *Dual-Network Cards and Mobile Wallet Technology Consultation Paper***

Australian Payments Clearing Association (APCA) welcomes the opportunity to provide a submission to the Reserve Bank of Australia (RBA) Consultation Paper, *Dual-Network Cards and Mobile Wallet Technology (the Paper)*.

In developing this response, APCA has consulted with issuers and acquirers across the payments industry. APCA has identified a range of different views and in light of this, has refrained from making strong recommendations. Instead, APCA has provided information on industry views, puts forward some key principles, and provides some relevant international comparisons for the RBA to consider.

Many stakeholders consulted will be providing separate responses, which will outline their positions in greater detail. In particular, APCA wishes to draw attention to three key themes which emerged in consultation:

1. The consultation paper questioned whether there were any scheme rules that impose impediments or restrictions on mobile wallets provisioning competing networks on dual-network cards. In consultations, most stakeholders reported that they were unaware of such restrictions.
2. Given the rapidly evolving nature of digital technology, the RBA should avoid a regulatory solution that either locks in certain technological or customer-experience options, or is easily avoided by creative technical solutions. If the RBA decides to pursue a regulatory option, a technology-neutral, principles-based approach should be considered.
3. The RBA should consider how any regulatory intervention would affect consumer choice. Customer experience is a key competitive advantage of mobile wallet offerings and mobile wallet providers should be allowed to compete to attract customers via product differentiation. Consumers have shown a preference for choice and flexibility, and should have the right to choose which mobile application they wish to pay with.

## **The Evolving Digital Consumer Landscape**

The move to mobile payments is part of an economy-wide move towards digital services. The move encompasses everything from digitisation of airline boarding passes and cinema tickets, through to government proposals for mobile public transport cards, digital driver licences, and e-passports.

Consumers have responded enthusiastically to these trends. In turn, consumer take-up has driven further investment – both in enhancing the existing consumer digital experience, and in exploring opportunities for digitisation of even more services. Mobile payments offer significant opportunities for transformation of the customer experience, for both how customers make payments, and how mobile payments enable other digital services and innovation.

## The Scenario

The Consultation Paper indicates that stakeholders have reported conduct that may have the effect of inhibiting competition within the emerging mobile payments sphere:

1. *“Scheme rules or policies of a network that prevent or hinder Australian card issuers from provisioning a competitor network for mobile payments (either expressly or through policies or restrictions that achieve that outcome in practice). In particular, stakeholders have raised concerns that issuers with existing dual-network cards might be prevented from enabling both networks on those cards for mobile payments.”*
2. *“Contractual terms for tokenisation services that could penalise an Australian issuer for provisioning a competitor network for mobile payments. In particular, stakeholders have raised concerns that contractual terms may allow a scheme to increase the price of tokenisation services for issuers that choose to also enable a network other than that scheme.”*

APCA understands that the RBA’s goal is to support payment choice, driving competition and efficiency. In this light, the RBA is concerned that the move to mobile payment apps may hinder access to eftpos, for both merchants and customers.

Competition and efficiency within the industry is driven by providing a range of payment choices. The current dual network cards support competition by allowing a consumer to easily choose between two different payment options. From a macro policy perspective, APCA supports an outcome where consumers can easily choose between two (or more) different mobile payment options. Ensuring this consumer choice eventuates requires that there is a level playing field for provisioning mobile payment applications, and that merchants and customers can freely choose which mobile payment application they wish to pay with.

## Response to Questions Posed by the RBA

*What are the views of end-users (cardholders and merchants) regarding dual-network cards, including their use in mobile payments? Are there particular benefits that arise for end-users from having multiple payment networks available on a mobile device? What risks and costs might arise?*

Stakeholders noted a wide range of consumer benefits, ranging from differentiated functionality (different networks offering different product propositions), linkages to accounts at different financial institutions (some stakeholders cited choice of account as more important to consumers than choice of network), and providing a low-friction consumer experience.

Some stakeholders cited one key benefit as providing a low-friction customer experience. Others indicated that risks may arise from complicating consumer experiences as a result of either regulatory settings, or inefficient co-existence of multiple networks on a mobile device.



*Are there any impediments or restrictions imposed (or planned or foreshadowed) by card schemes on the mobile wallet provisioning of competing networks on dual-network cards? If so, how significant are these and can they be justified on commercial or other grounds?*

In discussions in preparation of this submission, most stakeholders reported that they had no knowledge of conduct of this nature. However, some other stakeholders reported that they felt that there was evidence of this conduct within the industry.

Nonetheless, APCA is concerned by any reports of anti-competitive behaviour in the industry. As primary regulator of the payments industry, the RBA is best placed to assess and appropriately manage these issues.

*What are the likely effects – on competition and efficiency in the payments system, as well as more broadly – of the action of any scheme to prevent or discourage the mobile wallet provisioning of a competing network on a dual-network card? Are there benefits for end-users that arise from rules or policies that constrain the provisioning of an additional network on a device?*

APCA views that competition is best promoted by enabling consumer choice within a mobile environment. Enabling consumer choice will encourage mobile payments take-up.

*Do cardholders, issuers or others have views as to the feasibility of different possible ways of provisioning dual-network cards?*

Stakeholders noted that provisioning of dual-network functioning can occur in a number of ways. Each issuer will have their own views as to optimal processing for their customers. Wallet providers (either issuers or third-parties) may not necessarily offer the same networks.

*Under the existing voluntary undertakings to the Bank in place since August 2013 (see page 4), schemes have committed to some voluntary principles regarding dual-network cards. Have these principles been an effective response to the competitive issues that arose earlier? Have there been any issues in practice with the operation of these principles? Would an extension of these principles be an appropriate response to the current issues?*

APCA has identified a diversity of stakeholder views on the appropriateness of extending existing voluntary undertakings to cover mobile wallets. Some stakeholders felt that the voluntary undertakings had worked well, and offered a useful precedent that could be extended into the mobile wallet space.

Other stakeholders offered the view that the voluntary undertakings had little or no influence. One stakeholder noted that they had no effect except to push the cost to the issuer, without any benefit. Stakeholders who cited a lack of impact differed in their reasoning – one stakeholder noted that market forces on their own should be sufficient, while others indicated that more direct regulatory intervention was needed. Some stakeholders expressed the view that the private nature of the voluntary undertakings prevented merchants from taking advantage of their commercial choices.

*Are there any foreign precedents that are relevant for the consideration of these issues in Australia?*

Foreign jurisdictions have taken a number of different approaches with respect to regulating dual cards and mobile payments. Each jurisdiction's approach is shaped their unique regulatory settings, philosophies and payments practices – both past and present.

APCA has conducted a high-level research scan of the approaches different jurisdictions have taken. There is no clear consensus or common regulatory approach when it comes to dual cards or mobile payments:

Jurisdiction	Dual Card Regulation	Mobile Payments Regulation
Australia	✓ (informal undertaking)	✗
Canada	✓	✓
China	✓	✓
Europe (includes UK)	✓	✓
Malaysia	✓	✗
New Zealand	✗	✓ (industry rules)
Singapore	✗ (under consideration)	✗
U.S.A.	✓	✗

Below is a very high level summary that groups jurisdictions by different themes and subjects:

- **Dual cards.** Europe (including the UK), Canada, China, Malaysia and USA have adopted regulations covering dual-cards. Europe and Malaysia have no-restriction / non-discriminatory regulation in place to enable the issuance of dual cards. Canada's debit dual-card regulation determines which network must be used in each payment situation, effectively ensuring proprietary scheme is used for domestic debit transactions. China has banned dual-cards. US regulation has also enabled dual-cards but with outcomes less relevant to Australia.
- **Mobile.** Canada and Europe's regulation also specifically encompasses mobile payment environments.
- **Extent of regulation.** Europe has the most comprehensive set of dual-card regulation, designed to remove competitive restrictions for both cards and mobile.
- **Consumer payment option choice rights.** Several jurisdictions have focused on the rights for determining which payment instrument is selected to make the mobile payment. The majority of jurisdictions enshrine the customer's right to ultimately choose what payment instrument they use. These jurisdictions include Europe (including UK) and Canada, as well New Zealand where Payments NZ has established industry rules. Malaysian dual-card regulations (not mobile) give the ultimate decision for selecting the payment instrument to the merchant, with the customer having secondary decision rights.
- **Routing.** Europe's regulation states that the routing of transactions through a specific channel or process, with respect to the handling of two or more co-badged applications, shall be non-discriminatory (for both cards and mobile).
- **Network preferences.** China and Canada have enacted dual card regulation to determine which networks can and can't be used in respective payment situations. China has recently banned the issuance of dual cards, with the effect of making it harder for international networks to compete. Canada's regulation ensures the domestic network, Interac, has preference for domestic point of sale debit card payments.

In Appendix 1 to this submission, we have provided more information on other jurisdictions. APCA concludes that there are not any international approaches would be a good fit if applied fully to



Australia. However, some lessons can still be learned. One of these lessons is that consumers should have control of, and have the ability to choose, which payment application they wish to pay with when making a mobile payment. This consumer-choice principle can endure technology changes and can be used to help prevent issues arising in the future. It is also one of the two principles that APCA has based this submission on (referred to above), and provides an example of how a flexible, high-level and strategic approach could work in Australia.

*Are the issues raised relevant only to dual-network debit cards or are they also relevant to so-called 'combo cards' with credit functionality from one scheme and debit functionality from another?*

The issues raised may be relevant to both.

*Are there any prospective developments in payment card technology that may be relevant for the Bank as it considers these issues?*

Given rapid developments in digital technology, industry has a preference for technology-neutral solutions, where achievable (ie. one that is robust enough to encompass current, emerging, and future technology platforms, advancements and innovations). For example, this may be achieved by establishing enduring principles for Australia's mobile payments environments.

In addition, some stakeholders requested that the RBA gives consideration to the extent to which any new regulations increase friction in the customer experience.

*If the Bank were to contemplate a standard addressing conduct in this area, are there particular compliance costs that would arise for industry?*

Some Stakeholders noted that costs are not likely to be significant, while others raised the risk that any compliance costs are likely to be unintended (and dependent on the form of the standard).

## Next Steps

Thank you for the opportunity to comment on the Consultation Paper. Should the RBA develop a view on a proposed solution, APCA would welcome the opportunity to comment.

If you have any further questions regarding this submission, please contact Merric Foley, Policy Manager, Payments Direction, [mfoley@apca.com.au](mailto:mfoley@apca.com.au).

Kind regards



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APPENDIX 1: Analysis of Selected Jurisdiction's Cards and Mobile regulation Focused on Dual Cards / Co-Badging			
Jurisdiction	General mobile regulation	Dual-card / co-badging	Network routing and application priority selection
<b>Europe (incl U.K. and Denmark)</b>	European Commission regulations <sup>1</sup> on interchange fees for card-based payment transactions. <sup>2</sup>	<p>All regulations apply to cards and mobile. Interchange fee caps set &amp; no blended fees. Acquirers must transparently specify to each merchant the fees for each brand and category of payment card. Merchants can then choose what card brands and what cards within a brand they will accept ('honour all cards' rule prohibited).</p> <p>Total separation of payment card schemes and card processing entities (enables banks and retailers to choose the best processor).</p> <p>Issuers are not hindered/prohibited from co-badging any brands or payment applications together – issuers can issue dual-cards with applications from any combination of schemes and products. Any difference in scheme rules and licensing agreements concerning co-badging must be objectively justified and non-discriminatory.</p>	<p>From June 2016. Consumers and retailers can choose the payment type when paying with co-badged cards. Retailers can steer payers by installing default application choice in their payment terminals, but must inform customers first. Consumers have the last say and can override with their own preference (within the brands / applications accepted by the retailer).</p> <p>Schemes, issuers, acquirers and processor entities can't insert automatic mechanisms that limit the choice of payment brand or application when using co-badged payment instruments (can't predetermine what applications are used where e.g. if domestic POS use X application, if overseas use Y application).</p> <p>Routing principles that direct transactions through a process for handling two or more co-badged applications must be non-discriminatory.</p>
<b>United Kingdom</b>	Payment Systems Regulator	The Payment System Regulator is the U.K.'s "competent authority" responsible for implementing and regulating the European Commission's regulations (above). Interpretive guidelines <sup>3</sup> have been published on how the U.K. will implement the Commission's regulations.	
<b>Canada</b>	Financial Consumer Agency of Canada: Code of Conduct for	Competing domestic applications cannot be co-badged on same card. Complementary	Code allows merchants to freely choose which payment options they will accept. Consumers

<sup>1</sup> Regulation on interchange fees for card-based payment transactions, April 2015

<sup>2</sup> Summary of timeline and key dates for European regulation, Eversheds.com

<sup>3</sup> Guidance on the PSR's approach as a competent authority for the EU Interchange Fee Regulation, Payment Systems Regulator, October 2016



	the Credit and Debit Card Industry <sup>4</sup> . Code of conduct applies to card networks, issuers and acquirers. Updated in 2015 to extend to mobile.	applications can be co-branded & equally branded, e.g. Interac for domestic POS and Visa for card not present / cross-border. In mobile, debit payment credentials must be represented as separate payment applets.	shall have unrestricted control over payment default settings on mobile devices / wallets. Consumers can select which payment applet shall be used for contactless payments.
<b>USA</b>	Durbin Amendment	Requires that all debit cards be enabled on at least two unaffiliated networks. Networks must also not restrict or limit an issuer's ability to contract with other networks.	-
<b>New Zealand</b>	Industry rules	-	Payments NZ rule. If a mobile device has more than one application, the customer must be able to determine the priority between applications and cannot be overridden. <sup>5</sup>
<b>Malaysia</b>	Central bank introduced card reforms in January 2015 <sup>6</sup>	Networks must not restrict co-branding. Equal branding on card. No specific reference of dual-card regulation being applied into a mobile context.	Merchants have first priority in deciding which payment card network a transaction is to be processed by. Cardholders have second priority. Merchants can steer customers towards certain cards. No specific reference to mobile.
<b>China</b>	Central bank actively regulates & licenses for all payments including cards and mobile.	Issuing dual-cards to be banned – announced Nov 2016. Single-network cards only. <sup>7</sup>	-
<b>Denmark</b>	European Commission regulations on interchange fees for card-based payment transactions.	Same as Europe above. Notable because the proprietary network, Dankort, has to comply with wider European regulations, which they claim will	Same as Europe above.

<sup>4</sup> Code of Conduct for the Credit and Debit Card Industry in Canada, Financial Consumer Agency of Canada, August 2015

<sup>5</sup> Mobile Device Rules and Standards, Payments NZ Ltd, May 2014

<sup>6</sup> Payment Card Reform Framework, Central Bank of Malaysia, October 2014

<sup>7</sup> Central bank to force dual-network bank cards out of mainland market, Global Times, December 2016

		increase their costs and decrease their comparative efficiency. <sup>8</sup>	
<b>Singapore</b>	Central bank proposing to license and regulate mobile wallet providers and services that allow use of multiple cards <sup>9</sup>	-	-

<sup>8</sup> Annual report 2014, Danish Payments Council

<sup>9</sup> [Payment Card Reform Framework](#), Central Bank of Malaysia, October 2014