



Cabcharge Australia Limited

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2 August 2011

Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

Dear Sir/Madam:

RE: RESERVE BANK OF AUSTRALIA REVIEW OF CARD SURCHARGING – TAXI INDUSTRY INQUIRY SUBMISSION

A submission from Professor Fels to your Review dated 25 July 2011 has just been drawn to our attention.

We write at this stage not to make a submission to you, but rather to correct misapprehensions which might arise as a result of the following aspects of Professor Fels' submission.

- Professor Fels suggests that Cabcharge is the recipient of most service fees in Victoria with only small competing payment processing providers. The fact is that, particularly in recent years, a number of alternative payment system providers have expanded in size and geographical scope and enjoy significant market share in Victoria.
- Professor Fels asserts that the Federal Court recently made findings as to Cabcharge's market power. The only relevant proceeding is the ACCC's proceeding which concluded with orders being made by consent on 24 September 2010 to resolve the matter. The Court did not make any findings based on any contested hearing or evaluation of the evidence filed in the proceeding on the issue. Consent orders were made based on a statement of agreed facts which were explicitly agreed only for the purpose of the particular ACCC proceeding. In that context only, Cabcharge admitted that between 1 February 2005 and 31 July 2008 it had substantial market power in a taxi specific instruments market and a manual and electronic processing market. Prior to resolution of the ACCC proceeding by consent, market definition and market power were hotly contested in accordance with Cabcharge's Market Statement filed in that proceeding on 9 July 2010 and the voluminous evidence referred to in it. That Statement, updated to reflect increased competition since July 2008, remains Cabcharge's position outside of the ACCC proceeding.

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- Professor Fels then asserts that Cabcharge appears able to charge its fees as a consequence of its market power. That is in substance an allegation of misuse of market power, and its juxtaposition with reference to the Federal Court proceeding suggests that it was part of the ACCC's claims against Cabcharge in that proceeding. The ACCC made no such claim in the Federal Court proceeding or otherwise, and it is vigorously denied by Cabcharge. Please note that Professor Fels has no authority to speak as the competition regulator, and we are unaware of the basis for his assertions.
- Professor Fels concludes with a request which is based on the assumed premise that there is not a competitive market for electronic payments for taxi services. This is contrary to clear evidence of the expansion and market penetration of alternative payment system providers which compete very effectively against Cabcharge, and is accordingly also vigorously denied by Cabcharge.

Yours faithfully



Sharon Doyle
Company Secretary

cc Professor Allan Fels AO