

25 July 2011

Dr. Chris Kent  
Head of Payments Policy Department  
Reserve Bank of Australia  
GPO Box 3947, Sydney NSW 2001  
Via email: [pysubmissions@rba.gov.au](mailto:pysubmissions@rba.gov.au)

Dear Dr Kent,

Re: Submission on RBA's Review of Card Surcharging

Woolworths is pleased to provide a submission in relation to the Consultation Document dated 8 June 2011 in relation to specific concerns about surcharging practices in Australia. The Payments Systems Board imposed the No Surcharge Standards on Visa and MasterCard and its voluntary adoption by other international card schemes.

Please read this document in conjunction with the submission from the Australian Merchants Payments Forum to which we have also contributed.

Woolworths' views on each issue, as requested for in the RBA's proposed Review of Card Surcharging – June 2011 document, are provided below:

Is there a case for modifying the Standards to allow schemes to limit surcharges?

- Surcharging has been a legitimate and effective tool for merchants to steer customers towards the use of lower cost cards (for example by surcharging the more expensive American Express and Diners cards but not surcharging EFTPOS, Visa or MasterCard) and maintain low shelf prices.
- In relation to Woolworths, the intention to surcharge has been one of Woolworths' single most effective pricing negotiation tool for the domestic and international card schemes. This has assisted Woolworths' brands, which undertake 18% of all debit transactions and 12% of all credit card transactions in Australia, in not introducing surcharging currently. In certain brands we have achieved an almost 50% reduction in pricing, allowing us in the current economic and highly competitive environment to provide our customers with better value.
- Pervasiveness of surcharging is not really an issue with most of the high volume merchants not surcharging (e.g. most of the very large merchants who participate in the Australian Merchant Payments Forum and represent nearly 30-40% of all payment card transactions *do not surcharge*).
  - The Bank's own Consumer Payments Use Study shows that the overall proportion of transactions being surcharged has remained at a level of around 5% over the last three years.
  - This proves that market forces have worked well to prevent surcharging let alone excessive surcharging in general.

- The proliferation of credit cards, debit cards, prepaid cards and other payment products provides customers with a range of payment options and competition between retailers provides sufficient choice to customers. Market forces should be allowed to prevail.
- There may be instances of excessive surcharging, but they are undoubtedly few and far between. In case a business undertakes excessive surcharging, controlling this through regulation would anyway impact only a small component of the general price of its goods – could the RBA control its overall price discrimination?
- We feel there is no case for further RBA intervention to allow card schemes to limit surcharges given that:
  - various levels of merchant fees are levied by different acquirers, schemes cannot determine merchant fees correctly and should not be allowed to determine the ‘limits’.
  - if the schemes were allowed to set a limit, the only measure they would use is ‘interchange’ and restriction by interchange would be an extremely complicated and costly overhead on merchants.
  - schemes would not take into consideration all acquiring costs for a merchant – namely scheme fees, processing costs and margins. Merchant costs that are often not considered but can be significant for merchants include staff training, implementation of costly scheme and acquirer mandates.

Is a surcharge cap best implemented by the Board setting a transparent and specific permissible cap that is specified in the Standards, and may then be imposed in scheme rules? Or, should the Standards allow scheme rules to limit surcharges to an amount that is either reasonably related, or equal, to each particular merchant’s cost of card acceptance?

- While we do not feel the need to limit surcharging by way of a cap, at the same time we do not support misuse of surcharging provisions for price-gouging. Hence, should the RBA feel the need to reign in excessive surcharging, it could set guidelines setting a transparent and specific permissible cap that is specified in the Standards and not allow schemes to include them in their rules.
- The RBA could undertake a random audit of merchants to establish transparency and reasonableness of their surcharge rates compared to the caps.

Should there be some level of tolerance allowed around any surcharge cap?

- Should the RBA decide the need for a cap to reign in excessive surcharging, we would certainly like to see some level of tolerance to take care of other costs of acceptance for merchants not reflected in their merchant service fees.
- Concerns around the ability of merchants to exploit a high cap and set the surcharge rate to it by large merchants who have much lower merchant services fees is not borne out by the current reality in the market currently 80-90% of such merchants do not surcharge at all in order to retain lower shelf prices and be competitive.

Is the merchant service fee an appropriate measure of the cost of card acceptance (that can be applied consistently across all merchants)?

- Large merchants - especially self-acquirers - have a different pricing model, where merchant service fees are only part of cost of card acceptance. Several functions of a traditional card acquirer are performed in-house by self-acquiring merchants and as a result, there are other costs of running terminals and switching infrastructure and interchange

networks, host systems, software development and certification especially to meet costly mandated card scheme requirements e.g. PCI DSS; Triple DES, EMV, PIN at POS, Contactless, telecommunication costs, stationary and consumable and overheads which are incurred in lieu of flat fees paid to a card acquirer. Thus the merchant service fee would be an inappropriate measure of the cost of card acceptance.

Should the no-surcharge Standards clarify that, notwithstanding any surcharging cap, scheme rules cannot prohibit merchants from applying a surcharge that is either a blended rate for each card scheme or the cost of accepting each card within a card scheme? Are there alternative ways to allow for differential surcharging?

- Card scheme should not be allowed to have any restrictive clauses relating to surcharge as it would directly hamper effective pricing negotiations.
- Most acquirers charge a blended rate to merchants, large and small, and therefore it is impossible for such merchants not be able to surcharge using a blended rate.
- A blended rate of surcharge is also effective for simplicity and ease of customer communication at check-outs.

Should the no-surcharge Standards require acquirers to pass on information about the merchant's cost of acceptance for each different card type if it is requested by the merchant? And, for those on 'interchange-plus' pricing, should the No Surcharge Standards require acquirers to pass on information about the weighted average merchant service fee if it is requested by the merchant?

- Both these pieces of information from acquirers would be useful to merchants large and small to effectively surcharge and provide transparency of differing costs of acceptance for different card types to customers.
- This would increase merchants' ability to make commercial decisions, control costs and be competitive.

Is there a case for disclosure of the cost of card acceptance by merchants? Or, would it be sufficient for the Bank to collect and publish more detailed data on merchant service fees, such as the range and average of merchant service fees across merchant categories for each card scheme?

- The current industry practice is for card acquirers through their acquirer-merchant contracts to prevent the disclosure of merchant fees / interchange rates / scheme fees etc. charged.
- Publication / disclosure of such rates would cause unnecessary price tension for card acquirers amongst merchants.
- For the purposes of setting a cap, the Bank could rely upon the average merchant fees reported by the card acquirers to the RBA (by each card scheme) and set down guidelines in the Standards together with some level of tolerance as suggested above.
- However, in relation to disclosure of any surcharges, we believe that surcharge rates by merchants should be clearly provided at point-of-sale to enable customer payment choice and minimise customer confusion.

In conclusion, Woolworths would like to highlight that the abolition of the No Surcharge rule has had a very beneficial dual impact in the payments system of having a very low level of actual surcharging while delivering strong and improved price signals to significantly drive down interchange and merchant service fees. It also allows merchants – especially small and medium businesses under

significant cost pressures to recover their high cost of cards acceptance. If the RBA is of the view that excessive surcharging is rampant and unfairly pervasive, Woolworths would be supportive of minor modifications to the Standard to set transparent and specific caps (with some tolerance) by each card scheme and card type. These caps should be only in the Standard and not in card scheme rules.

Thank you for the opportunity to respond to the Consultation Document and look forward to discussing this with you at your convenience.

Yours Sincerely

A handwritten signature in cursive script, appearing to read 'Dhun Karai', with a horizontal line underneath.

Dhun Karai  
Head of Group Financial Services,  
Woolworths Ltd.

Cc: Tom Pockett, Finance Director, Woolworths Ltd.