

10 February 2012

Dr Christopher Kent
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
Sydney NSW 2001

Consultation on variations to the surcharge standards

Dear Chris

We refer to your media release dated 16 December 2011 concerning the Payments System Board's (PSB) Consultation on Card Surcharging and the request made in the release for written submissions on the draft standards.

In responding to the issues raised in the consultation document and the proposed changes to the standards, we would like to offer perspectives in two main areas, namely determination of reasonable costs and limitations of schemes ability to set limits and monitor compliance.

In considering the first of these, we agree with the Board that setting surcharge limits based on reasonable costs is appropriate. We also believe it is important that any changes to the standards must give merchants the ability to recover in full the costs they incur for acceptance of card products.

This said, we consider the definition proposed in the standard too broad and open to interpretation as to what constitutes reasonable cost of acceptance. In the absence of a clear definition what is reasonable, one would expect an issuer's definition of reasonable to differ to that of a merchant. Therefore, under these circumstances the potential exists for a stalemate which would frustrate any good the standard seeks to achieve.

We remind the Bank that when considering the definition of eligible costs for credit card interchange, the Bank presented what costs it considered reasonable for inclusion in its eligible cost definition. This gave certainty to all parties and removed doubt that the intent of the standard would not be achieved. We are not confident the same certainty and effectiveness will exist in the implementation of the changes to surcharging as proposed by the Bank.

Turning to our second concern, namely the ambiguity of how the new surcharging limits will be achieved, we cannot see how leaving it to the schemes and merchants to agree a limit will work. Whilst we acknowledge that the Bank affirms a weakness of this approach, this being that it may take longer to reach a mutually agreeable position, we are even less optimistic than the Bank and believe that a reasonable

position will fail to be reached between these two groups because the ultimate motivation of agreeing and setting a limit each is different.

While we acknowledge exceptions to this will occur and agreement reached in some situations, particularly with the larger retailers or industry representative bodies in the case of smaller retailers, how practical is it to rely on these industry bodies to ensure compliance, a function that will put them in conflict with their members?

We do not believe this approach is sensible without there being an appropriate independent body which either side can appeal to and agree a mutually fair position and then to ensure compliance can be enforced at all levels.

Overall we support the general direction being explored by the Bank although we have highlighted two issues that we believe will challenge the industry in setting appropriate limits and ensuring compliance. We welcome the opportunity to discuss our submission further with you.

In the meantime should you require further information please do not hesitate to contact me on (07) 3258 4248 or mswannell@indue.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Swannell', written in a cursive style.

Michael Swannell
Executive Manager - Payments