



3 February 2016

VIA EMAIL : [pysubmissions@rba.gov.au](mailto:pysubmissions@rba.gov.au)

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

Dear Tony

**Submission to the Review of Card Payments Regulation – December 2015**

The regulatory approach has to move on from yesterday's battle to today's reality.

The world has changed and many rules and regulations for the payment space justifiably proposed, and some thankfully implemented only a short while ago, have become technologically obsolete.

While we welcome the proposed changes to the Bank's Surcharging and Interchange Standard, in that they partly reduce the unintended gaming by the industry causing unwarranted and unfair outcomes, they fall short of the regulatory goal of improving competition and efficiency in the card payments market.

The regulation has become trapped in a circle of industry gaming, countered by new regulatory standards of increasing complexity and resulting in enforcement nightmares and new gaming. Technology advances such as contactless payments, mobile wallets and account-level processing have invalidated the Bank's fundamental assumption that regulation could assure that price signals and merchant and consumer choices would enable a sufficiently competitive and effective market.

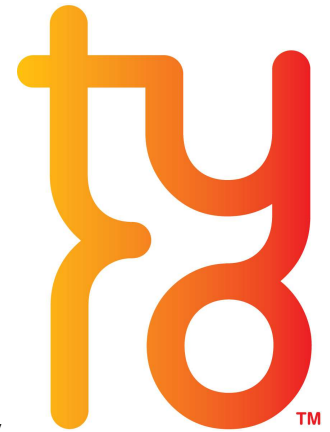
Today's reality of the payment space is characterised by:

- The fight for the digital-savvy consumer who requires simple, easy, real-time payment solutions such as contactless, account-level processing, and mobile wallets. This is the way it is. It is all about user experience.
- The fact that the technology provider and issuer of the payment product (card schemes and issuing banks) make all the choices and the retailer and their bank are disempowered. There is no more cost information, no product or network choice, and no opportunity for the cardholder or merchant to make any choice at the time of payment.
- The Bank's concept of transporting price signals to the point of payment which puts competitive tension into the payment selection (by giving the cardholder and merchant a choice) has become obsolete. It just does not work. There is no transparency or choice. It is tap and go.
- The retailer and cardholder cannot avoid high, and at the time unknown, costs imposed on them directly or indirectly. The merchant is taxed.

Given these new realities of payment technology, the retailers and consumers cannot choose and avoid the use of expensive payment methods and manage the burden of non-transparent and incomprehensible interchange fees. Neither would they be able to recover these charges through a surcharge of actual costs.

**Tyro Payments Limited**  
abn 49 103 575 042

lvl 1/155 clarence st  
sydney nsw 2000  
p+61 2 8907 1700  
f+61 2 8907 1777  
h+1 300 966 639  
[www.tyro.com](http://www.tyro.com)



The changes to the Bank's Surcharging and Interchange Standard will, in reality, mean very little. As the benchmark remains a weighted average, the changes will not "*significantly reduce the extent to which small-to-medium-sized merchants and low-income consumers are disadvantaged relative to a group of preferred merchants in the MasterCard and Visa interchange systems*" as intended by the Bank.

- The dominant banks, global schemes and big retailers have gamed the mechanics of the average interchange fee cap in the past by granting steep discounts to the dominant retailers and recovering those from small-to-medium merchants. The new proposed Standard could possibly reduce this unjustifiable and unfair cross-subsidy gained from an interchange spread of up to 10 times to one of up to four times. Low-income Australian consumers would then pay less than they do now [6.7 times more than high-net worth individuals], but still substantially more.
- But new gaming by the dominant banks, global schemes and big retailers could, and most probably will, however eradicate the benefit. While current interchange fees up to 200 basis points will be pruned back to a maximum of 80 basis points, the lost interchange fee revenue can easily be recouped through the issuance of an optimised interchange fee product in the space above the average cap and the hard cap. Thus the gains for the community from the new Interchange Standard, capped at 80 basis points, can be minimised.

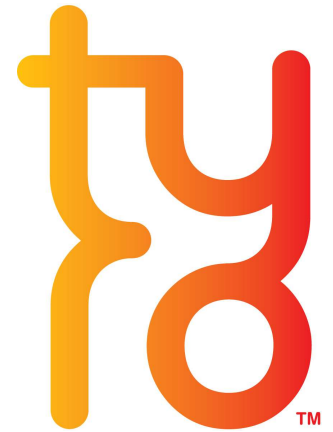
The stronger enforcement rules and powers against excessive surcharging should have a moderating effect on the major abusers. In the daily life of small-to-medium-sized merchants there was never an abuse and the complexity of the rules make them impractical. If the interchange fee was significantly reduced or eliminated, the surcharging issue would disappear.

Since the advances in technology have eliminated many of the regulatory choices still assumed in the proposed changes, the Bank should simplify the current over-complicated regime by eliminating the interchange fee or at least lowering it to the recommended level, which was adopted across the European Union.

As the interchange fee becomes reasonable (lower), the pressure to surcharge and the subsequent unsocial cross-subsidies will wane and Australia's migration into the cashless society will accelerate.

Getting rid of the interchange fee would kick-start a beneficial chain of events that would eliminate regulatory complexity, abolish unfair cross-subsidies and vexing surcharging (reversing interchange). It would also remove barriers to innovation and catapult Australia into the cashless society. Consumers would also enjoy relief from rising cost-of-living pressures, while retailers struggling in a difficult market would become more profitable and competitive.

**As an absolute minimum, the Bank should convert the current weighted-average benchmark of 0.50 percent for credit cards and 8 cents for debit cards to a hard cap.**



Current major incumbent banks in the industry might say that a lower level of a hard cap would stop innovation in issuing businesses. The fact that European interchange rates are hard capped at a much lower 0.3 percent and also the current strong profits of the incumbents strongly suggest that the banks argument is nothing more than a desire to preserve current incumbents profits and market position -- which, in fact, directly deprive SME businesses, which create the majority of jobs in Australia, of profits and thus capital to help Australia grow.

Since the industry participants were unable to deliver the regulatory outcomes, there is now an opportunity for the regulator to help and align industry. With a low-cost hard cap interchange fee, all vexing issues of the past, such as costs, transparency, surcharge, and choice would become so much simpler and thus manageable.

Also the huge wealth transfer that results from the discounts and rewards in the hundreds of millions of dollars per year, which are funded by Australia's small-and-medium-sized business merchants, and the least affluent consumers will be a thing of the past.

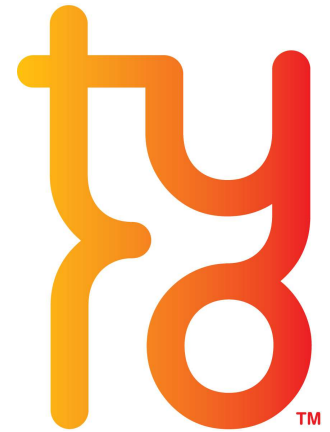
Instead of gaming the regulatory framework, the industry could concentrate on real innovation. It would be a big step forward on Australia's path towards the cashless society.

Yours sincerely

Jost Stollmann  
CEO

Appendix:

- Eliminating choice for merchants and consumers
- Tyro Background



## **Eliminating choice for merchants and consumers**

The way the schemes and banks have recently designed and specified card payment products has by de facto eliminated transparency and choice for merchants and cardholders.

Contactless cards remove the need and possibility for cardholders to have any interaction with the terminal for transactions under a certain limit. For the cardholder of a multi-function card and for the accepting merchant, this removes the ability to choose the payment type and network choice at the EFTPOS terminal for contactless payments.

The issuer pre-determines the payment type and network default. The cards are in fact single scheme cards when they operate contactless. The one-step process eliminates the ability of the merchant to surcharge the card.

The technology is designed in a way that requires the amount of the transaction to be determined by the terminal before there is any knowledge of the type of card in the wallet tapped on the terminal. The card creates a cryptogram which includes the amount in the algorithm used and sends it to the issuer. This is done to prevent modification of the amount after approval by the card, as there is no other proof of the amount accepted, i.e. no signed paper authorisation.

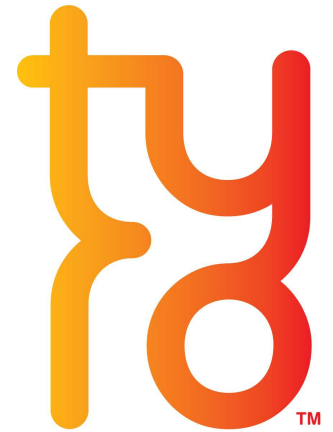
The surcharge right for contactless transactions has been in effect eliminated.

Theoretically, a merchant can surcharge all card payments with the same rate applied to all cards; credit, debit, EFTPOS, swiped, dipped or tapped. A default surcharge amount for scheme contactless does not work technically and would not accurately offset the actual cost to the merchant of processing each individual transaction.

The Reserve Bank of Australia could attenuate unwarranted effects due to the inability to surcharge by subjecting contactless card payments to the same interchange regulation as applicable to debit cards. This would only reflect the economic reality that cost-based surcharging is essential a reversal of high interchange rates. It would also give the schemes an incentive to implement contactless chip and mobile payments in a way that maintains network choice and allows surcharging.

Equally, Visa account level processing (ALP) eliminates the ability to differentiate card type at the terminal. This change marks a fundamental shift in the way that transactions are processed in Australia, enabling issuers to customise consumer credit products at the account number level (instead of using a six-digit Bank Identification Number (BIN)), and allowing product identification to be sent to participating acquirers with every transaction. As a result, consumers can be upgraded or downgraded to a new card product without having to obtain a new card number.

In our view, Visa could have chosen to maintain the card type that allows determining the applicable interchange fee on the card's chip, a feature inherent in the EMV specification. That way acquirers and merchants would retain the possibility to surcharge the cost of the specific card transaction.



## **Tyro Background**

Tyro Payments Limited is a special Australian Deposit Taking Institution (ADI) regulated by the Australian Prudential Regulation Authority. Tyro is Australia's independent provider of acquiring services for credit, scheme debit and EFTPOS cards and electronic Medicare processing services for patient paid and bulk-bill claims.

Tyro responds to the Reserve Bank of Australia (RBA)'s consultations, particularly from the perspective of the only new entrant in the payment space competing with the incumbent banks as a technology innovator and a sole-acquirer, i.e. an ADI that does not issue cards.

Tyro has been operating as a sole-acquirer in the payments market for nine years.

Tyro's participation in the Australian payment system became possible through the engaged support of the RBA forcing an access regime in 2004 and 2005 on the global card system and in 2005 and 2006 on the domestic debit card system (EFTPOS) and the clearing and settlement streams BECS and CECS.

Tyro's success is also owed to the Australian Prudential Regulation Authority (APRA) making the then new, now defunct license regime Specialist Credit Card Institution (SCCI) workable within the requirements of banking regulatory oversight and the needs and resources of a start-up innovative banking institution.

However, Tyro's progress has been slowed by the many persistent entry and expansion barriers that continue to persist, mostly the EFTPOS access regime, the EFTPOS interchange fee regimes and the settling and bundling behaviour by the dominant retail banks.

Nonetheless, Tyro has built a business that caters for and is well suited to the small and medium business community, raising the bar for Australian merchant acquiring in terms of speed, security, reliability and ease of use.