

14 December 2004

Dr John Veale
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Dear Dr Veale

Designation of EFTPOS & VISA Debit - Supplementary Submission No. 2

I refer to the submission dated 21 October 2004 by the Australian Payments Clearing Association (APCA) and wish to ensure there is clarity in relation to the stated APCA position.

In its submission, APCA stated that its position "*in summary is the conditional one that interchange fees must be standardized if an effective and complete access regime is to be developed for EFTPOS*". This is not the position of the EFTPOS Access Working Group (EAWG) set up by APCA to review such matters.

The EAWG has neither debated nor come to a position regarding bilateral versus multilateral EFTPOS interchange fees and their possible impact upon the EFTPOS Access Regime. No analysis has been requested or received on this subject from either the EAWG legal advisors or the EAWG economic advisors.

An earlier statement on 8 April 2004 by Dr Peter Smith to the Australian Competition Tribunal said, "*Like the ARA, I am not aware of any analysis which would suggest that a zero interchange fee is a necessary condition of an EFTPOS access regime. APCA has not made such suggestion and none of the EFTPOS access reform documents put together as part of the reform process suggest that either.*"

APCA has provided no reasons for requiring a multilaterally set interchange fee for EFTPOS to make the access regime work.

The setting of a multilateral interchange fees is not a feature of other access regimes, i.e. it is not required. Bilaterally negotiated fees require commercial negotiations between Access Providers and Access Seekers. There is no reason why bilateral interchange fees cannot be addressed in line with Part IIIA and Part XIC of the Trade Practices Act where the commercial negotiation/ dispute resolution model is the standard model for access regimes.

Finally, Dr Peter Smith said in his supplementary statement to the Australian Competition Tribunal on 8 April 2004 that, *"There has been no analysis undertaken at the EAWG to suggest that bilaterally negotiated interchange fees bring about a more complex environment for the purposes of EFTPOS access reform."*

Yours sincerely



Stan Moore
Chair

cc. Dr Peter Smith, APCA