



17 December 2004

Dr John Veale
Head of Payments Policy
Reserve Bank of Australia
Level 10
65 Martin Place
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Dear Dr Veale

EFTPOS Interchange Fees

I refer to a supplementary submission made by the Australian Merchant Payments Forum (AMPF) to the Reserve Bank dated 14 December 2004. This submission purports to add clarity to APCA's position on EFTPOS interchange fees. APCA's position was put quite clearly in our submission to the Reserve Bank dated 21 October 2004. This position is consistent with all previous APCA statements. To restate APCA's position, it is that interchange fees must be standardised if an effective and complete access regime is to be developed for EFTPOS.

The AMPF note that 'APCA has provided no reasons for requiring a multilaterally set interchange fee for EFTPOS to make the access regime work'. Putting aside the use of the term 'set' as against the term 'standardised' used by APCA, the proposition is not complicated. It is a matter of logic not of argument that you cannot build a complete and effective access regime leaving a material factor impinging on entry in the clear. To give an example, if a potential new acquirer is unable to negotiate satisfactory interchange fees with each and every major card issuer it will impair its ability to offer attractive terms to retail merchants and therefore its ability to enter the market.

AMPF quote two excerpts from my supplementary statement to the Australian Competition Tribunal ('the Tribunal') dated 8 April 2004. My statement did include the following:

"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 a suggestion and none of the EFTPOS access reform documents put together as part of the reform process suggest that either."

There is nothing about this which is inconsistent with saying, as APCA did in its 21 October submission to the Reserve Bank, that 'interchange fees' must be standardised if an effective and complete access regime is to be developed for EFTPOS. First, zero interchange fees had been factored into APCA's access work as a given at the time of the Tribunal's proceedings; no analysis had occurred. Second, standardisation can potentially take many forms. Setting interchange fees to zero is just one of these and APCA has not suggested that there is a need for zero interchange fees in order to have an effective access regime. APCA's position on that matter therefore remains as it was.

My supplementary statement also included the following, again as quoted by AMPF:

"There has been no analysis undertaken at the EAWG to suggest that bilaterally negotiated interchange fees bring about a more complex environment for the purpose of EFTPOS access reform."

However, my statement immediately went on to say:

"However bilaterally negotiated interchange fees would add a layer of complexity to an access regime because they would replace a constant (ie, zero interchange fees) with a variable (ie, negotiated interchange fees). APCA did not undertake any analysis of this, as it appears to be self-evident."

At the time of my April supplementary statement to the Tribunal APCA had not given full consideration to the implications of bilaterally negotiated interchange fees, because of a working assumption of these fees being set at zero (as noted above), consistent with the determination of the Australian Competition and Consumer Commission ('the Commission'). Following the Commission's determination being set aside, APCA gave due consideration to the complexity of not having some standardisation of interchange fees. APCA's conclusion informed by discussions with its members and legal and economic advisors was that an access regime would be incomplete and not necessarily effective in opening doors for new entrants if interchange fees were left to bilateral negotiation.

Finally, there would seem to be a level of misunderstanding on the part of AMPF about the role of the EFTPOS Access Working Group (EAWG) within APCA. AMPF says that APCA's position 'is not the position of...EAWG'. The purpose of EAWG is to assist APCA to develop the EFTPOS access regime by, among other things, ensuring a wide range of views are brought to the table. EAWG is not structured to determine or to voice a collective position and nor has it.

Yours sincerely

Signed

Peter Smith
CHIEF EXECUTIVE OFFICER