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**By email: [elizabeth.batten@accg.gov.au](mailto:elizabeth.batten@accg.gov.au)**

Elizabeth Batten  
Senior Analyst, Competition Exemptions  
Mergers, Exemptions and Digital  
Australian Competition and Consumer Commission

Dear Elizabeth

**Response to interested party submissions re ABA authorisation application**

We refer to the following three submissions provided in relation to the ABA's application for authorisation dated 10 July 2023 (**ABA application**):

1. a submission from Australian Payments Plus (**AP+ Submission**);
2. a submission from IDCARE, a national identity and cyber support community service (**IDCARE Submission**); and
3. a submission from the Consumer Action Law Centre, CHOICE and the Financial Rights Legal Centre (**Consumer Groups Submission**).

*AP+ Submission and IDCARE Submission*

The ABA does not have any further feedback or observations in relation to the AP+ Submission, other than to note that it is strongly supportive of the ABA's application for authorisation.

The ABA also does not have any feedback on the IDCARE submission, other than noting that:

- IDCARE supports the intent of enabling collaboration across the industry and in principle welcomes establishing a draft industry standard; and
- IDCARE's further points for consideration are matters to be considered at the time any application for implementation of a draft industry standard is made.

*Consumer Groups Submission*

The ABA wishes to respond to the following points raised in the Consumer Groups Submission:

**1 Suggested conditions re COBA**

The Consumer Groups Submission suggests that the ACCC consider imposing:

- a condition on any authorisation requiring the ABA to inform the Customer Owned Banking Association (**COBA**) of any major opportunities, risks or outputs it identifies out of the proposed conduct that could impact the ability of the banks to detect and prevent scams; and

- a condition (if possible) that the ABA offer to include COBA members in initiatives that arise from conduct under the authorisation.

The ABA notes that COBA and its members are not covered by the proposed authorisation. While the ABA intends to keep COBA informed of its progress at a general level, there are limits to what information can be shared with COBA and its members in compliance with competition law. Conduct or engagement between the ABA and COBA and their respective members that falls within the scope of the conduct that is the subject of the interim authorisation and the ABA Application would potentially require a separate authorisation.

## **2 Sharing of technology and intellectual property**

The Consumer Groups Submission provides: *“The application does not appear to seek authorisation for the potential sharing of technology or intellectual property between banks to help implement best practice approaches across the industry. The ACCC should consider whether the scope of the proposed conduct is sufficient to deliver the intended public benefit, or can be realistically achieved without possible actions such as sharing technology.”*

As noted in the ABA’s application for authorisation, the purpose of the current application is to allow ABA members to have effective, multilateral discussions to develop an in principle Industry Standard, however implementation of such in principle Industry Standard will be the subject of a separate authorisation application.

The ABA considers that the appropriate time to address the public benefits arising from the proposed Industry Standard is at the time that an application for implementation of the proposed Industry Standard is made.

## **3 Development of cross-industry code**

The Consumer Groups Submission raises the concurrent timelines for the development of an Industry Standard with the Government’s plans to develop an industry-wide mandatory code of conduct.

We acknowledge in paragraph 3.3 of the ABA Application that the Federal Government has recently announced a legislated cross-industry code will be introduced for banks, telcos, social media platforms and others in the near-term. As mentioned in the ABA Application:

- the ABA considers that this will take some time to develop. The Industry Standard will be capable of implementation as soon as the Industry Standard is authorised by the ACCC (by way of a separate application), preventing avoidable losses to customers in the interim period prior to the legislation of the cross-industry code;
- Member Banks have also been encouraged by government to develop the Industry Standard because a robust and well considered banking industry standard can form the building blocks of the legislated cross-industry code.
- To the extent Member Banks are not able to engage in effective, multilateral discussions now, this would impede the development of the Industry Standard and could potentially delay the development of a legislated cross-industry code. In addition, the consultation period in respect of a cross-industry code could be prolonged as Member Banks may not, absent authorisation, be able to effectively coordinate on a response to government’s consultation on the legislated code.

If you have any further questions regarding any of the above feedback, please let us know and we or the ABA would be happy to discuss further.

Kind regards

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