

15 September 2021

Daniel McCracken-Hewson
Competition Exemptions
Mergers Exemptions and Digital
Australia Competition and Consumer Commission
Level 17
2 Lonsdale Street
Melbourne Vic 3000

By email

Dear Daniel,

Gateway Network Governance Body Ltd (GNGB) – Response to Draft Determination of Authorisation Application AA1000552

Draft Determination

1. Thank you for your consideration of GNGB's application for authorisation and for the ACCC's (**Commission**) draft determination. GNGB are pleased with the ACCC's draft determination and has only minor comments below. Re-authorisation will enable GNGB to more effectively implement the revised Memorandum of Understanding (**MoU**) between itself and Gateway Operators concerning the stewardship arrangements for the Superannuation Transaction Network (**Network**).
2. GNGB agrees with the Commission's assessment of the public benefits of effective stewardship of the Network and the role of GNGB under the MoU.

Submission: Length of authorisation

3. In response to paragraph 4.36 of the Commission's draft determination and the ACCC's invitation for interested parties to make submissions on whether a longer period of authorisation would be appropriate, GNGB proposes that a longer term for exemption authorisation, being 10 years, would be appropriate.
4. The rationale for this submission is as follows:
 - (a) On 22 September 2021, GNGB will have been operating for a period of 5 years. During this time both the Network itself and the governance framework have matured into an integral and efficient part of the superannuation system and have operated well, with broad support from the gateways and other participants.
 - (b) We are not aware of any detriments arising from the existing authorisation or any concerns that the GNGB framework or the terms of the MoU have reduced innovation or competition for gateway services or excluded any gateway operator from the market.
 - (c) There have been good levels of compliance with the MoU by participating gateways. We submit this is partly due to the stewardship which GNGB has provided under the existing authorisation
 - (d) These benefits are likely to continue in this form for the next ten years as the Network is likely to operate in its current form for at least that period of time. The

changes to the MoU referred to in this authorisation application are minor and support the maturity and development of GNGB's stewardship of the Network.

- (e) The Network and the public benefits that derive from an industry owned governance body are likely to remain viable in the longer term for ten years or longer. Both government, and industry more broadly, have invested heavily in the implementation of digital superannuation transactions within superannuation.
- (f) A ten year authorisation period would provide more certainty to interested parties that the authorised framework will continue for the medium to long term and provide Gateway Operators and GNGB with confidence that their activities under the MoU can continue. In addition, the longer term of authorisation, if granted, would enable the work of GNGB to continue unhindered by additional cost and time that would be required in order to re-apply for authorisation in five years.
- (g) Whilst GNGB anticipates a continued focus on improving the governance framework in line with lessons learned through the application of it, we do not envisage significant material changes should be required to the MoU in the foreseeable future. As a matter of course, if any material changes were to arise during the authorised period, GNGB would notify the ACCC.

Additional information request

Question 1

- 5. You have asked for our confirmation that paragraph 1.10 of the draft determination correctly characterises the cartel risks posed by the Proposed Conduct.
- 6. We agree that paragraph 1.10 is an accurate description of the risk posed by the Proposed Conduct. In addition, we would make the following comments:
 - (a) GNGB considers that the nature of the governance framework, including the publicly available process by which remedies can be applied to non-complying Gateway Operators, the transparent criteria required to become a Gateway Operator, together with the make-up of the Board and the balance that exists between Gateway Operators and other Network stakeholders, allay any perception or risks of anti-competitive behaviour.
 - (b) Authorisation would allow GNGB to be more confident that, if the Board were to suspend a non-complying Gateway's participation in the Network, claims could not arise that suspension contravened the *Competition and Consumer Act*.

Question 2

- 7. You have also asked us to expand how Gateway Operators may compete with each other to provide messaging services to employers and super funds, i.e. why an employer or fund would choose one Gateway Operator over another?
- 8. The *Data and Payments Standards* prescribes in detail how the electronic messaging is to be implemented. Some Gateway Operators have differentiated their services to target a particular segment of the market (e.g. just employers and their payroll providers) while others provide services to all market segments (employers, payrolls, registry platforms, Super Funds etc.). The differentiating elements include:
 - (a) the type of messages provided (e.g. for employers only, that may be just be messages about superannuation contributions); and

- (b) how the services integrate with the systems used within the type of organisation they are targeting.
9. Whilst GNGB is not privy to the detail of the competitive advantages or disadvantages of particular Gateway Operators offering services to the same customer segment, key differentiating elements may sit outside the provision of standard messaging services in the following ways:
- (a) how the services may integrate into Funds' or employers' existing technology environment to enable a streamlined sending/receiving of messages fulfilling their clients' compliance obligations seamlessly;
- (b) bundling other services they may offer with messaging, such as data transformation and validation, delivery of 'white labelled' customer portals for input of message data, clearing house services (money transfer) or superannuation member registry services, all of which may be integrated with messaging services but are outside the scope of GNGB's governance framework; and/or
- (c) their ability to provide solutions for other types of payroll or tax messaging such as Single Touch Payroll, therefore becoming a one stop shop for their clients.

Please contact me if you require any additional information or have any questions with regard to this submission.

GNGB has no objection to this submission being placed on the public register.

Yours sincerely,



Michelle Bower
Chief Executive Officer