Australian Institute
of Petroleum

21 March 2003

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Sir

Application for Authorisation: EFTPOS Interchange Fees

Please find attached the submission by the Australian Institute of Petroleum on the above, in response to your letter to the Institute of 24 February.

We would be happy to expand on any of the issues raised in the submission, if you require.

Yours Sincerely

E. D. Macpherson

Deputy Director

Australian Institute of Petroleum Ltd ABN 11 005 152 581
Level 2, 24 Marcus Clarke Street, Canberra ACT 2600
Postal Address: GPO Box 279 Canberra ACT 2601
Tel: 61 2 6247 3044 Fax: 61 2 6247 3844 Email: aip@aip.com.au Internet: http://www.aip.com.au

Australian Institute of Petroleum

APPLICATIONS FOR AUTHORISATION
Nos A30224 and A30225

in relation to
EFTPOS INTERCHANGE FEES

A submission to the
Australian Competition and Consumer Commission

by

AUSTRALIAN INSTITUTE OF PETROLEUM

March 2003

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SUMMARY AND RECOMMENDATIONS

- The refiner-marketer member oil companies of AIP are major stakeholders in EFTPOS, as are other large retailers. In particular:
  - 16 per cent of EFTPOS transactions are made at their service stations;
  - AIP member companies have made major investments in EFTPOS acquiring facilities. These investments exceed $100 million, and in addition the companies incur operating costs in excess of $10 million annually.
  - These investment and operating costs by the oil companies represent a saving of costs for acquiring financial institutions. Accordingly, individual oil companies, as other retailers, have negotiated a network access fee with their acquiring institution to reflect this saving.

- There has been no serious consultation between the banking group and these stakeholder groups. The consultation process put in place appears to have been no more than 'window dressing'.

- The Applicants' proposal is not necessarily the optimal economic efficient outcome. In particular:
  - Pricing signals on debit cards will not be clear to consumers, in contrast to the requirements for clear pricing signals in credit card reform;
  - The EFTPOS system will need major new investment shortly. Under the Applicants' proposal, the bulk of the cost of this investment will be passed on directly to merchants and consumers;
  - Current major investors in EFTPOS will have all incentive to invest in EFTPOS removed;
  - Issuing banks can opt for scheme debit, if the outcome on EFTPOS is not to their liking.

- The Applicants' proposal is simply an attempt by financial institutions to move costs from themselves onto merchants and consumers. This is a cost-free or even potentially profitable outcome for the Applicants, at the expense of other stakeholders, the merchants and consumers.

- The Applicants' proposal is an arrangement made only between themselves. Merchants and consumers, in spite of being major stakeholders, were effectively excluded from participation in the formulation of the arrangements. Because of this stance taken by the Applicants, any financial implications of agreements between them should only impact on the Applicants. Thus if Applicant acquirers agree that Applicant issuers no longer pay the acquirers an interchange fee, those acquirers should bear the burden of that agreement, not pass it on.

- The direct effect of the Applicants' proposal is that, at best, consumers are no worse off. However, as the proposal stands, no Applicant has committed to any reduction in the costs born by cardholders. Therefore, a much more likely outcome is that issuing institutions will be able to retain part or all of their cost reduction as a windfall gain, leading to a net negative public benefit.

- Access to the EFTPOS network is an essential element of any reform of EFTPOS, to ensure maximum competitive pressures at both issuing and acquiring levels. The latter is particularly essential since the Applicants propose to pass all acquiring costs on to merchants and consumers; therefore the competitive options on acquiring that are available to merchants must be maximised, so that merchants can mitigate those costs.

- Consideration of access reform should not be deferred for later consideration by APCA, but should form an integral part of any approval process.

- The claimed public benefit in the proposal of increased use of debit cards compared to credit is largely illusory; price signals will be confused, and the reforms to credit cards suggest changes to EFTPOS are not necessary to achieve the desired outcome.

Recommendations

1. The current review of EFTPOS includes the effect on public benefit of potential scheme debit arrangements replacing current EFTPOS arrangements.

2. ACCC should refuse authorisation of the Applicants' proposals. The AIP believes that there should then be a full review of EFTPOS arrangements under the auspices of an independent body charged with identifying the optimal future EFTPOS arrangements, covering the legitimate needs of all stakeholders, and taking into account future investment needs

3. If the ACCC were to authorise the Application, it should be subject to the following conditions:

    - The future reviews of EFTPOS proposed by the Applicants take place under a body independent of the issuing and acquiring banks, and formally take into account the views of wider stakeholders;

- Issuing institutions be required to pass on all cost reductions resulting from the Application to cardholders within a defined time period; all forms of reductions or enhanced service to cardholders should be fully disclosed and properly quantifiable;
- Charges by the Applicants to stakeholders that were not party to the development of the proposed arrangements should not be increased by Applicants as a result of the arrangements. In particular, merchant service charges to merchants by acquiring institutions should not change as a result of the arrangements;
- Relevant acquiring financial institutions should be required to enter into good faith negotiations with merchants that have invested in acquiring infrastructure, to ensure that the arrangements between the merchant and the acquiring financial institution fairly reflect the investments made and costs incurred in acquiring by the merchant; and
- A review of access arrangements, targeted at maximising access options at both issuing and acquiring levels, is established as an integral part of the EFTPOS reform, so that all EFTPOS reforms are rolled out together.

1 INTRODUCTION

The Australian Institute of Petroleum (AIP) was established in 1976 as a non-profit making industry association. AIP's mission is to promote and assist in the development of a sustainable, internationally competitive petroleum products industry, operating efficiently, economically and safely, and in harmony with the environment and community standards.

This submission is in response to the letter from the Australian Competition and Consumer Commission (ACCC) dated 24 February 2003. In this letter, the ACCC invited comment on the likely public benefits and effects on competition of the arrangements proposed for EFTPOS Interchange Fees by various banks, and for which authorisation was sought from the ACCC.

AIP's member refiner-marketer companies are major stakeholders in EFTPOS, both as investors and as users, and are significantly affected by the proposed arrangements. Accordingly AIP is pleased to provide this submission, on behalf of the following member companies.

BP Australia Pty Ltd
Caltex Australia Ltd
Mobil Oil Australia Pty Ltd
The Shell Company of Australia

Some of these companies may also be providing individual submissions.

This submission will cover four areas, namely:

- The involvement by oil companies as stakeholders in EFTPOS;
- Comments on the submission 'Applications for Authorisation of EFTPOS Reforms' (the Applicants' Submission), pointing out certain significant errors and omissions;
- Comments on the improbability of the realisation of public benefits claimed for the proposed arrangements;
- Access and related competition issues.

AIP has already developed two submissions in regard to proposed reform of EFTPOS. The first was a result of an invitation from the EFTPOS Industry Working Group (EIWG). The second was developed following a complete lack of response from EIWG to the first submission, and was sent to the Reserve Bank of Australia (RBA) for their consideration. Both submissions contained alternative proposals to those submitted for authorisation.

2 OIL COMPANIES AS STAKEHOLDERS IN EFTPOS

2.1 Overview

The oil industry has played a vital role in the development, acceptance and usage of EFTPOS in Australia.

The first introduction of EFTPOS took place at an Ampol service station in Melbourne, involving the National Australia Bank, in 1984. Other companies followed in the same year, linked with various banks. These arrangements did not involve interchange.

However it quickly became clear that EFTPOS would not gain widespread acceptance until all major cards could be processed through a single card terminal; in this way, customers would not be restricted to one bank, or conversely retailers would not be forced to have four or more card terminals at the point of sale. Following pressure from oil companies and other retailers, interchange was introduced for EFTPOS from 1985.

The significance of the pressure from retailers should not be underestimated. Full ATM interchange was not achieved until 1997, despite the fact that ATMs preceded EFTPOS.

Following the introduction of interchange, the growth in EFTPOS use was rapid. As the EIWG itself acknowledged: 'Usage of EFTPOS in Australia initially was moderate but was spurred by acceptance at petrol retailers'.

As a result, service stations customers are now a major source of EFTPOS transactions. Oil companies have invested heavily in EFTPOS facilities, and provide a key element in the overall EFTPOS infrastructure.

2.2 Usage of EFTPOS at Service Stations

In 2001, at the service stations of the four AIP refiner-marketers oil companies, there were almost 300 million card transactions worth approximately $11 billion. EFTPOS transactions accounted for about one-third of these transactions, and were worth about 3 billion dollars.

In total, 16 per cent of all EFTPOS transactions in Australia were conducted at the service stations of the AIP member companies.

2.3 Investment by Oil Companies in EFTPOS

Oil companies are major investors in EFTPOS, and also incur major ongoing costs in operating and maintaining EFTPOS systems.

The investment by the oil companies varies between companies, but encompasses the following:

- Card terminals;
- Secure PIN pads;
- Integrated point of sale systems at certain sites;
- In-pump card readers and/or driveway card acceptors at some sites;
- Placement of ATMs at certain stores;
- Front-end processors and switches; and
- Communications networks.

The AIP member companies have installed almost 11000 card terminals at their sites; these have been specifically developed to meet individual company requirements, and are owned and paid for by the companies. All four companies have at some stage installed and operated their own fault tolerant front end processor and switch.

The total capital and associated investment by the companies exceeds $100 million. This expenditure represents the development of comprehensive acquiring infrastructure by the oil companies.

In operating and maintenance costs, AIP companies incur costs in data communications, retail support, equipment maintenance, and consumables. These annual costs exceed $10 million.

The development and installation by the oil companies of their own terminal infrastructure has meant that acquiring banks have not had to meet these costs. However, the costs incurred by the oil companies are real. It is essential that the oil companies continue to earn a return on these investments, to ensure that their systems and hardware remain current.

As a consequence of their investments, oil companies have entered into individual arrangements with an acquiring institution for the latter to access the oil company EFTPOS infrastructure. In these arrangements, the acquiring institution negotiates with the oil company a network access fee in recognition of this access and the savings in acquiring costs to the institution.

These contractual arrangements are competitive in nature and commercially confidential; AIP has not had access to them. However AIP member companies are prepared to provide further information individually on these arrangements to the ACCC on a confidential basis, if required.

3. COMMENTS ON SUBMISSION BY THE APPLICANTS

The focus of this AIP submission is on the two issues raised by ACCC – public benefit and competition. However, AIP below comments on some of the claims made in the Applicants' Submission, where these have some relevance to issues of benefit and competition.

3.1. Price Signals

The RBA/ACCC Joint Study (*Debit and Credit Card Schemes in Australia – A Study of Interchange Fees and Access*) found that 'pricing of retail payment services in Australia, in which interchange fees play an integral role is distorting the payment choices facing consumers' (p 78). The Joint Study found the distortion was the result of insufficient competitive pressures to bring interchange fees in line with costs, and by card users facing incorrect price signals on the relative costs of credit card and debit cards.

Both points are important. The issue of competition relates mainly to access, and is covered in Section 5 of this submission. With regard to the need for correct price signals to card users, it should be noted that the proposal from the Applicants will still leave a distortion in price signals.

The applicants acknowledge that the ending of interchange is likely to see acquiring banks pushing their costs down to merchants. They further foresee that merchants will generally not surcharge for the costs, but absorb the costs into general pricing structures. This means that card users will still not see the genuine costs of EFTPOS transactions, and so will be unable to respond to them. While the direct cost of EFTPOS may appear to be lowered, the new structure will still build in distortion in pricing structures.

This is stark contrast to the decisions on credit card reform which dictate clear pricing signals to enable customers to make a decision on method of payment.

3.2. Consultation

The Applicants' Submission states that the EIWG invited submissions from interested parties and held a stakeholder forum to discuss those submissions; the Submission claims that the issues raised by stakeholders were taken into consideration in developing the proposed reform arrangements.

This statement is completely misleading. The actual situation on the consultation is instructive, since the proposal in the Applicants'

Submission contains a stakeholder review process as an important element.

The EIWG invited stakeholders to an initial briefing on 4 July 2003, well after the EIWG had commenced its deliberations. Initially stakeholders were asked to make submissions on the issues presented by 31 July. This was a completely unreasonable deadline; it was only extended after protests from stakeholders.

AIP commissioned a major analysis by consultants Transaction Resources to assist with the AIP submission. This analysis examined in detail EFTPOS systems in Australia and other countries, and raised serious questions about the indicated EIWG position. Other stakeholders also made substantive submissions.

The EIWG then held a Discussion Forum on 26 September, involving the wider stakeholders. The Forum was mainly a series of presentations, without substantive discussion on any issues raised. At the end of the Forum, AIP was asked to summarise the key issues that it wished the EIWG to consider, as a next step in the consultation process. AIP prepared a paper summarising a number of substantive issues, and sent them to EIWG in early October. This paper can be made available to the ACCC if required.

By the end of 2002, AIP received no communication from EIWG of any kind, on the issues paper or indeed on any other matter. This was in spite of a number of follow-up emails to the nominated contact point in EIWG.

As a result of the complete lack of response, AIP prepared with Transaction Resources a follow-up submission containing a compromise proposal, which was sent to the RBA at the end of December. In a follow-up meeting with the RBA, RBA asked whether AIP would be prepared to re-enter discussions with EIWG. AIP stated that it was always prepared to enter into constructive engagement, but saw no benefit in a meeting which was held simply as 'window dressing' rather than real consultation. AIP was assured by the RBA that it expected constructive discussions on the AIP proposals. On this basis AIP agreed to meet with the EIWG, together with the Australian Retailers Association.

This meeting was called by EIWG in early February, for a meeting with a sub-group of EIWG. The AIP proposals were presented, and EIWG representatives made several suggestions, for instance regarding the phase-in of changes. AIP was asked to consider these and revert, which we undertook to do.

Within a few days, however, before AIP was able to revert to EIWG regarding their suggestions, a representative of the EIWG called AIP to state that EIWG had decided to move straight to the Application for Authorisation, and none of the issues raised by AIP (or the Australian Retailers Association) would be considered. One of the reasons given for this was that there were strong conflicting views inside EIWG, and the only point of consensus achievable inside EIWG was on the zero interchange proposal

The EIWG representative did state that another representative of the EIWG would contact AIP to offer to brief AIP on the Application before its submission. However, in the end no such contact or offer eventuated.

This process of supposed consultation illustrates two important points:

- That there was no serious consultation process with wider stakeholders. What took place was no more than 'window dressing'. This is significant in terms of the review process put forward in the Applicants' proposal. On the basis of this experience, AIP is firmly convinced that any review process will be largely meaningless, and will ignore the views of the wider stakeholders, unless it held under the auspices of a strong independent body.
- That the proposal before the ACCC is a one-sided view and does not represent the optimal outcome in terms of the long run sustainability of Australia's world class EFTPOS system. The proposal is simply an uneasy compromise of what could be achieved given the various diverse positions inside EIWG.

3.3 'Rebates' of EFTPOS Merchant Service Charges to Larger Merchants

The Applicants' Submission notes that merchants pay their acquiring financial institution a merchant service charge for the use of the acquiring facility supplied by the acquiring institution; it goes on to state that large merchants receive 'rebates' from their acquirers, rather than pay fees.

The Applicants' Submission fails to recognise that this 'rebate' is in fact a network access fee, for the use by the acquirer of the merchant's EFTPOS infrastructure. This recognises that the merchant has invested in EFTPOS facilities, and pays part of the acquiring operating costs, as pointed out in Section 2.3 of this submission. The actual amount of the fee is a matter of individual negotiation between acquirer and merchant and will reflect the extent of the investment by the merchant.

3.4 Network Investment and Development

The Applicants' Submission recognises the risk that the lowering of the interchange fee will reduce the immediate returns on EFTPOS investment and the incentives to undertake the expenditure needed to maintain or improve the present quality and penetration of the network. However, it goes on to say that it is likely that merchant service charges imposed by acquiring institutions on retailers will rise to provide an alternative revenue stream to finance investment in acquiring facilities.

This statement needs to be placed in context. There are major investments needed in EFTPOS facilities over the next few years, such as EMV compliance, which is being imposed by card schemes primarily to combat fraud – a cost to the card issuer. While estimates of the amount required vary, one bank participant in the Discussion Forum stated that the investment cost could reach $1 billion.

Given this, the Applicants' Proposal can be construed as an attempt to move a large part or even all the costs of this massive investment from the banks directly onto retailers, and so on to consumers.

At the same time, the Applicants' proposal removes any incentive to invest in EFTPOS from one of the major current sources of investment in EFTPOS – the large merchants.

3.5 Scheme Debit

The Applicants' Submission does not cover scheme debit options open to issuing banks.

Issuing banks have the ability to move EFTPOS debit cards across to scheme debit cards; this would result in instant positive interchange for debit cards in Australia. This process is already occurring in other parts of Asia Pacific. Scheme debit provides a means for issuing institutions to bypass rulings on EFTPOS.

This possibility was indicated by Westpac in its submission to the EIWG (dated 5 September 2002), which noted:
...we believe that keeping the current bilaterally negotiated regime will result in issuing banks opting out of EFTPOS for different approaches. Among others, these approaches may include variants on existing proprietary schemes (eg American Express, Diners Club), or open schemes (Visa or MasterCard scheme based debt) or other substitute payment methodologies.

Such a move by issuing banks need not be tied to the outcome of the future of bilateral negotiations.

AIP firmly believes that a move to scheme debit could have serious adverse implications for Australian EFTPOS systems. The result would be a higher level of fees being applied dependent on whether the credit or debit options are selected. Accordingly AIP urges that scheme debit cards be included in all reviews of the future of EFTPOS in Australia.

4 PUBLIC BENEFITS OF APPLICANTS' PROPOSALS

4.1 Overview

The Applicants argue that the proposed arrangement will reduce issuer costs, and that competitive forces will 'ensure cardholders face lower charges for marginal debit card transactions over their free allowance…'.;while acquirers lose the revenue stream provided by negative interchange, they will recover this revenue from increased charges to merchants; merchants are unlikely to surcharge EFTPOS to recover the increased costs, and are more likely to absorb the increased costs in general cost structures - the result would be an increase in general prices of less than 0.1% - deemed as 'inconsequential'.

It is important to note that, at best, consumers/ cardholders are no worse off under the proposals. Transaction Resources has estimated that total acquiring costs are on average 21 cents per transaction, approximately equivalent to the interchange fee currently paid by issuing institutions to acquiring institutions to compensate them for acquiring costs. Even if all the benefits of the zero interchange fee are passed on to cardholders, this would be roughly offset by the extra costs passed on to consumers.

This is simply a move by banks to reallocate costs (which were recovered by direct charges to their customers) away from themselves, onto merchants and so to consumers. At worst, the consumer is much worse off, if competitive forces are insufficient to drive down issuing costs and charges.

The public benefit is claimed to stem from:

- Making EFTPOS more attractive to consumers compared to more expensive credit cards
- Introducing greater flexibility in interchange fees, making them more responsive to market forces
- Easing the access of new issuers and acquirers by simplifying negotiation of bilateral interchange agreements.

The last point on access is examined in Section 5. Public benefits related directly to interchange fees are examined in this Section.

4.2 Issuer Costs

Issuing costs do indeed fall for issuers under the Applicants' proposal. Further, in so far as gateway fees comprise interchange and gateway fees, the ending of interchange fees would remove one element of current gateway fees structure. This infers a reduction in overall gateway fees. It should be noted, however, that the Applicants' proposal does not guarantee that gateway fees would not rise to offset the loss of interchange.

The Applicants then claim that effective competition in retail banking will lead to the costs reductions being passed on to cardholders either in lower fees or enhanced services.

Crucially, there is no guarantee that these competitive forces will actually achieve this. It is in the interests of issuers to only pass on as little of the reduction in costs as the market will bear. The less effective is the competition, the less the need for banks to reduce their direct charges for EFTPOS. To date, the 'stickiness' of interchange fees is demonstration that competition has not been effective. Nothing in the Applicants' proposed arrangements changes those competitive pressures, unless access is truly freed up. In effect, the Applicants' claim is no more than a 'Trust Us' argument, with questionable foundations.

It is therefore a very credible scenario that the Applicants' proposals will allow issuers a windfall gain of all or part of the reduction in issuing costs, at the expense of merchants and consumers.

AIP recommends that any ACCC authorisation stipulates that issuing institutions pass on all cost reductions to card users within a defined time period; if the reductions are passed on to card holders in the form of enhanced services, such as more free transactions, these should be properly quantifiable.

4.3 Acquirer Costs

Acquirers have real costs, which need to be recovered from somewhere, as is acknowledged by the Applicants. The Applicants' proposal is that this increase in costs will be passed on to merchants by increases in merchant service charges, so acquirers are no worse off.

In effect, the Applicants' proposal is cost-free or even beneficial for themselves, but at the expense of merchants and consumers. In this context, it is perhaps not surprising that the consultation process with the wider stakeholders was so disregarded by the EIWG.

A number of points should be noted:

- The Applicants' Submission notes that retailers are unlikely to surcharge extra costs, but rather add the costs to general cost structures. The evidence from the recent credit card reforms, and from overseas, suggests that this is credible. This means that there will be little or no direct price signals to consumers at the point-of-sale as to the relative cost of the debit payments compared to credit cards or cash.

- The Applicants' Submission states that the overall effect on prices will be 'insignificant'. This disregards the potential effect of the extra costs arising from the investment needed in the EFTPOS system – which the Applicants' Submission suggests will be passed on to merchants and so to consumers. If estimates by some banks of $1 billion are correct, the actual effect on price levels could approach 1% for a period.

The Applicants' Proposals also ignore the position of merchants that have invested in EFTPOS, and are compensated by a negotiated network access fee, reflecting their investment and associated costs. There is nothing in the Applicants' proposal that suggests that acquiring financial institutions will in good faith negotiate with such merchants how to compensate them for absorbing part of the acquiring infrastructure cost. A worst case outcome could see large merchants losing the revenue stream that justified the investment in acquiring infrastructure, facing the imposition of normal merchant service charges, while still incurring all the costs associated with their current investment.

At the very least, under any ACCC authorisation, relevant acquiring institutions should be required to enter into binding agreements, to ensure that the arrangements between the acquirer and the merchant fairly reflect any investment in acquiring infrastructure made by the merchant.

Overall, it is very questionable whether any of these acquiring costs should be passed on to merchants and consumers. The Applicants' proposal is an arrangement between financial institutions, from which other stakeholders have been effectively excluded. Given this, there is no justification for the outcome of the arrangements to be passed on to other parties, and the costs and benefits should be shared between the parties to the arrangements. This leads to the best public benefit, in terms of impact on end consumers.

AIP consequently recommends that any ACCC authorisation stipulates that merchant service charges to merchants by acquiring institutions do not change as a result of the arrangements

4.4 The Public Benefit Consumers of Cheaper EFTPOS compared to Credit Cards

The Applicants' Submission notes that the RBA has suggested that pricing arrangements would be more efficient if debit card transactions shifted the balance of costs towards merchants and consumers, thus correcting the perceived imbalance in the relative costs to consumers of debit cards versus credit cards and other forms of payment. The Applicants' Submission also claims that the net effect on retail prices is likely to be a small decline if the proposed reforms to credit cards proceed.

The Applicants' proposal relates to EFTPOS only, so considerations of the effect of reforms on credit cards is strictly irrelevant. In any case, the reforms on credit cards are well advanced, and not contingent on the outcome of any reforms of the EFTPOS arrangements. Conversely, if the two are to be linked, then scheme debit should also be included.

With regard to possible increased efficiency of shifting costs towards merchants and consumers, this depends largely on the changes introducing accurate price signals on the costs to cardholders of debit cards. The Applicants' Submission acknowledges that their proposals will more likely result in increases in general prices, rather than more efficient price signals.

In any case, it is by no means clear that cardholders will react significantly to changes in the pricing structure of EFTPOS compared to credit cards. This is simply an assumption by the Applicants. If they do, the changes to credit cards may have this effect anyway without changes to EFTPOS, with the increased costs to consumers of linked services to credit cards such as loyalty and reward schemes.

As outlined above, the net actual public benefit effect on consumers from the Applicants' proposal is at best neutral, and more likely negative. The perceived public benefit from reducing the attractiveness of credit cards compared to EFTPOS is probably happening anyway. If so, all the Applicants' proposals will achieve is to reduce the public benefits for consumers from the credit card reforms, with the financial institutions benefiting at the expense of consumers.

4.5 Increased Flexibility of Interchange Fees

The Applicants claim that their proposals introduce greater flexibility into setting of interchange fees. The Applicants state that the difficulty in renegotiating the current bilateral agreement creates inertia that discourages review and change of the interchange fees. It is also claimed that the proposed arrangements make it easier to set non-zero interchange fees, for example to encourage new investment; however, interchange fees would only be changed subject to a review process.

These are somewhat surprising claims, in that:

- Other stakeholders are being expected to bear costs due to 'inertia' by the Applicants;

- The Applicants are proposing an inflexible zero interchange fee, initially;
- The current EIWG process does not encourage confidence that agreement on any other fee structure could be agreed between financial institutions, or that the interests of wider stakeholders would be properly taken into account.

Moreover, the Applicants' claim seemingly recognises that a revision of interchange fees that correctly reflected market forces might indeed lead to non-zero interchange fees. This suggests that the Applicants' claim is merely an interim compromise, rather than a proper review of the changes required to EFTPOS arrangements.

Given the very flawed nature of the Applicants' proposal, and likely adverse net public benefit, AIP believes that the optimal approach would be for ACCC authorisation to be denied.

This should then lead to a full review conducted under the auspices of an independent body charged with seeking the optimal future EFTPOS arrangements, covering the needs of all stakeholders, and taking into account likely future investment needs.

5. ACCESS ISSUES

The Applicants' Submission recognises that access to the market for EFTPOS services is an important factor in maximising competitive forces, and so driving down costs.

AIP agrees with this. It is crucial to ensure that competitive pressures are maximised at both the issuing and acquiring level. In Section 4.2, AIP outlined the need for maximum competitive pressures at the issuing stage, and the potential adverse effects on public benefit if this was not in place.

Similarly at the acquiring level, it is crucial to ensure that merchants have the maximum options open to them to select an acquirer, particularly as the Applicants' proposal envisages a straight pass through of acquiring costs to merchants and so consumers. This enhanced access applies to financial institutions, merchants, and to specialist acquiring institutions as happens in some other countries.

However, the Applicants then suggest that this issue of access be left to a later date outside the current approval process. The Applicants argue that standards for the processing and settlement of EFTPOS transactions are administered by the Australian Payments Clearing Association (APCA) through the Consumer Electronic Clearing System (CECS) regulations, and that these are due for review before September 2003; therefore as part of the review process, APCA can consider technical and procedural amendments necessary to improve the processes for and the timeliness of establishing interconnections for EFTPOS entrants. This separation of access and interchange fee outcome would allow the proposed EFTPOS arrangements on interchange to be implemented concurrently with credit card reforms.

AIP strongly disagress with this separation of access and interchange. The maximisation of competitive pressures are an essential component of the EFTPOS reforms, and impact directly on net public benefit. Access is integral to the EFTPOS arrangements. It is essential that the reforms necessary on access are rolled into the overall reform of EFTPOS arrangements.

This may mean that EFTPOS reform is delayed somewhat beyond the date at which credit card reforms are introduced. However, there is no pressing reason that the two reforms should be concurrent, apart from a certain neatness. It should be remembered that the review of EFTPOS arrangements commenced well after the review of credit cards. It is preferable to get EFTPOS right, including access provisions, rather than endanger the public benefit by deferring consideration of an essential component.