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THE HON. MICHAEL ATKINSON MP



ATTORNEY-GENERAL
MINISTER FOR JUSTICE
MINISTER FOR CONSUMER AFFAIRS
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Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

**MINISTERIAL
URGENT**

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Dear Mr Grimwade

I appreciate the opportunity to comment on the likely public benefits and effects on competition of the proposal by the major banks to set interchange fees collectively for EFTPOS (Electronic Funds Transfer at Point of Sale) to zero cents per transaction.

I understand that the proposed agreement is a product of the EFTPOS Industry Working Group, formed at the request of the Reserve Bank of Australia (RBA), to consider reforms to the EFTPOS interchange fee reform.

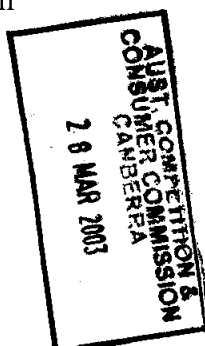
The proposed agreement will not eliminate interchange fees (in the sense of external rules or an agreement to remove any mechanism of charging them) however it sets up a multi-lateral agreement between the major banks to set the fees (for the four-year life of the authorisation/agreement) to zero. I understand that the agreement gives the major banks the option of resetting fees at a cost-recovery level after the expiry of the agreement.

Benefits to consumers

The proposed agreement between the applicant financial institutions will benefit consumers in these ways:

- It should lead to decreased transaction fees for transaction accounts because the EFTPOS interchange fee part of those fees will be removed;

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- It should (coupled with the credit card fees reforms) make payment by EFTPOS cheaper relative to payment by credit card, which should have a beneficial effect for consumers by reducing interest payments and credit card over-commitment;
- The RBA has argued that eliminating EFTPOS interchange fees (or at least moving to a cost-based fee system, which is open to the applicants under the proposed agreements) will eliminate the current subsidy of merchants by debit-card holders. The resulting user-pays model will make the fees more transparent and flexible so that they remain at levels sufficient only to recover costs. This in turn is argued to reduce the overall cost of the Australian payments system with savings to be passed on to consumers;
- The multi-lateral nature of the agreement, coupled with the ability of other EFTPOS providers to become parties to the agreement and the applicants' undertakings in the agreement to use reasonable endeavours to negotiate bilateral agreements with non-parties to set interchange fees to zero, should make the negotiation of new agreements less complicated for new entrants (because the fee level need not be negotiated). Making it easier for new entrants to provide EFTPOS services, whether by issuing cards or providing services to merchants, should increase competition with flow-on pricing benefits to consumers.

These benefits, however, would rely to some extent on the financial institutions not seeking to recoup the lost revenue from interchange fees by increasing direct fees to card holders and merchants. It is therefore important that regulators strictly monitor the carrying out of the agreements to ensure that the desired effects identified by the ACCC/RBA Joint Study are realised.

Furthermore, bearing in mind the ACCC/RBA conclusion that EFTPOS interchange fees are not justified, a better option would be eliminating fees altogether. This would deliver longer-lasting benefits to consumers than setting the fees to zero for four years. I understand, however, that a multi-lateral agreement about a cost-recovery fee that is paid to the card issuer rather than the merchant's financial institution is an acceptable alternative model for delivering the benefits identified by the ACCC/RBA Joint Study. The proposed agreement is a compromise that appears to deliver the major benefits of elimination for at least the life of the agreement.

Anti-competitive detriment

It is not clear what the anti-competitive effects of the proposed agreements may be. It may be that the agreement does not cover all participants in the payments system lessens any benefit argued to flow from a move away from bilateral agreements to multi-lateral agreements in terms of lowering barriers for new entrants. It may be that another implementation model involving an industry-wide standard or rules would be less anti-competitive and of greater benefit to consumers. The Office of Consumer and Business Affairs does not possess the information necessary to assess this properly and I assume that the ACCC will consider this in its assessment of the authorisation application.

Thank you once again for the opportunity to comment on the applications.

Yours sincerely

A handwritten signature in black ink, appearing to read "M. J. Atkinson", with a long horizontal flourish extending to the right.

Michael Atkinson
Minister for Consumer Affairs