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No. of Pages: 2

To: Tim Grimwade	From: MTAA
Date: 27/5/03	Fax No: 02 6273 2738
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Motor Trades Association of Australia

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
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Dear Mr Grimwade

Thank you for your letters of 8 and 21 August 2003 advising of the Commission's decision to issue a draft determination proposing to deny authorisation for applications A30224 and A30225 relating to EFTPOS interchange fees and advising of a pre-decision conference in relation to that decision to be held on 1 September 2003.

The Motor Trades Association of Australia (MTAA) does not seek to attend the pre-decision conference. However, generally speaking the views expressed by the Australian Retailers Association (ARA) in relation to these EFTPOS authorisation applications reflect the views of MTAA.

In relation to the Commission's request for commentary on the draft determination, I would only wish to repeat the views expressed to the ACCC in our letter of 28 March 2003:

'... the views of ARA warrant the closest consideration. This is particularly so in regard to the views about the likely limits on the entry of competitors and the possible lack of future investment in the network that might follow if the authorisation is granted.'

MTAA is particularly concerned at the likely impact on small business if the authorisation is granted. It is MTAA's view that the proposal is designed to shift costs to merchants. This is explicitly stated in the Executive Summary wherein it is stated:

"merchants will face higher costs as a result of acquirers independently deciding to seek to cover the cost of providing EFTPOS facilities from other sources of revenue following the loss of interchange fee revenue from issuers".

In MTAA's view this likelihood is absolute but the impact of such a proposal will almost certainly be apportioned unfairly. Large businesses, most particularly, supermarket chains, oil companies and others will be

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- 2 -

able to use their market power to ensure that they do not face increased costs or that the costs otherwise likely to be imposed upon them will be able to shifted. This in fact already occurs now in relation to merchant service fees avoided by the two largest supermarket chains in relation to card business of all kinds.

The costs to be recovered will in all circumstances fall unevenly onto those businesses with no capacity to negotiate similar terms and conditions as their large competitors. Thus far from being equitably spread across all sectors and evenly passed on to consumers, the distribution of such additional charges may fall to an unnecessary degree on the least powerful. The effect of competition will have forced small business to absorb costs otherwise that had been shared largely according to market share.


The applicants even seem to have attempted to turn this argument to their advantage when they note that "Merchants...are unlikely to engage in widespread surcharging for the use of direct debit cards given the level of effective competition."

It is MTAA's view that the proposed authorised conduct would have the effect of reducing competition and would impose an unfair and inequitable additional burden on the cost of doing business for those in small business. It is recommended that the ACCC refuse the authorisation application.'

Upon further investigation, MTAA is of the view that all operators, not simply smaller players would face additional costs to their businesses if the system were changed in accordance with the authorisation applications.

MTAA has previously expressed the view (see correspondence of 31 July 2003) that the Commission should consider the applications A30228 and A30229 lodged by the Australian Payments Clearing Association in respect of the Consumer Electronic Clearing System in conjunction with these EFTPOS authorisations and in particular should, in that context, consider whether new entrants to the system will meet a barrier to entry that would restrict competition.

Yours sincerely



GEOFF GARDNER
Deputy Executive Director

27 August 2003