

File Note

Date: 25 August 2003

Matter: Applications for Authorisation A30224 and A30225

File Ref: C2003/238

3.10pm

Attendees:

Jennifer McNeill	Australian Competition and Consumer Commission (ACCC)
Tim Grimwade	ACCC
Joanne Palisi	ACCC
Sue Sullivan	ACCC
Danielle Staltari	ACCC
Stuart Woodward	Commonwealth Bank of Australia
Luke Lawler	CUSCAL (Australia) Limited
John Toms	Australian Settlements Limited
Roger Featherston	Mallesons Stephen Jaques
Genevieve McMahon	Mallesons Stephen Jaques

Tim Grimwade commenced the meeting by providing an overview of the public consultation process and the statutory requirement that the Commission place a non-confidential record of today's meeting on the Commission's public register.

Roger Featherston noted that in requesting this meeting the applicants\* were seeking to gain a better understanding of the Commission's draft determination and that it was not anticipated that the applicants would wish to claim confidentiality with respect of the matters discussed at this meeting.

Stuart Woodward then explained that whilst he represented the Commonwealth Bank of Australia his role at the meeting was to represent the applicants as a whole and reiterated Mr Featherston's earlier statement that in requesting this meeting the applicants\* were seeking to gain more of an understanding in relation to the Commission's draft determination. Mr Woodward noted that the applicants were surprised and disappointed by the Commission's draft determination but wished to take this opportunity to discuss the way forward as the applicants remained committed to EFTPOS reform.

Mr Featherston stated that the applicants were concerned that the Commission's draft determination appeared to be a back-flip from the Joint Study and noted that if the comparison is the status quo how does a zero interchange fee make access harder and not a desirable outcome?

Commissioner McNeill explained that the Commission had not reached the draft decision lightly, nor without considering the ACCC / Reserve Bank of Australia Joint Study of interchange fees and access arrangements. Commissioner McNeill noted however that, in the absence of access reform and the potential for competition to be enhanced, the Commission could not be confident that the arrangements would result in a net benefit to the public.

Commissioner McNeill noted the Commission was not at this time persuaded that there is any certainty as to the development of enhanced access. Commissioner McNeill also noted that the Commission would like to consider whether, the applicants or another party, could provide it with some degree of comfort and certainty that EFTPOS access reform was likely to occur. Commissioner McNeill stated that the Commission considered that, such reform was likely to influence its balancing of the benefits and detriments as it would in all likelihood change the market conditions against which the Commission had considered the applications for authorisation.

Mr Featherston noted that there were likely to be significant difficulties in providing such assurances to the Commission, in particular as not all parties within the Australian Payments Clearing Association (APCA) EFTPOS access reform group shared the same points of interest. Mr Featherston asked whether a project plan indicating key dates and an informal undertaking to proceed in good faith would be sufficient to provide the certainty sought by the Commission. Mr Featherston noted that APCA was unlikely to be able to provide ultimate certainty and there could be future road blocks that mean that the project can not be achieved.

John Toms noted that while it is desirable that the principles of access reform are identified, he was nonetheless concerned that there are great difficulties that will make this process uncertain. Mr Toms noted that he was concerned that the timeframes set out by the Reserve Bank were likely to be unrealistic given the issues to be considered.

Luke Lawler noted that the reason that the EFTPOS Industry Working did not choose to tackle access reform was because it was seen as being impossible to align EFTPOS and credit card reform if EFTPOS also sought to cover access. Mr Lawler also questioned how it was expected that the applicants could satisfy the Commission in relation to access reform if APCA and not the applicants is the appropriate body to address the issue.

Mr Toms noted that in his view the applicants were not in a position to deliver on EFTPOS access reform and expressed concern that if APCA were to be unable to deliver access reforms then the EFTPOS reform process would come to an end.

Commissioner McNeill observed that whilst such a development may signal the end of voluntary reform, the Commission did not consider that it would necessarily bring an end to the EFTPOS reform process. Commissioner McNeill also observed that the applicants as a group have a significant say in the operations of APCA.

Mr Toms indicated that the applicants could try to do what they could within APCA but could not necessarily guarantee an outcome. Mr Toms noted that he believes there is still a net benefit regardless of access.

Mr Featherston stated that the applicants as a group could make representations to APCA about the level of commitment to access reform.

Mr Woodward sought an indication from the Commission as to likely timings of the process from here on.

Mr Grimwade noted that public consultation would be extended to enable participants at the pre-determination conference to provide further submissions in relation to issues discussed at the conference and that these submissions would then be provided to the applicants for their consideration prior to the Commission making its final determination in relation to the applications.

Meeting ended 4.00pm.

\*Applicants:- Australia and New Zealand Banking Group Limited, Australian Settlements Limited, Bank of Queensland Limited, Bank of Western Australia Limited, Bendigo Bank Limited, Cashcard Australia Limited, Commonwealth Bank of Australia, Credit Union Services Corporation (Australia) Limited, National Australia Bank Limited, St George Bank Limited, Suncorp Metway Limited and the Westpac Banking Corporation