

MALLESONS STEPHEN JAQUES

Mr Gavin Jones
Director
Adjudication Branch
Australian Competition & Consumer Commission
Level 35 The Tower
360 Elizabeth Street
Melbourne VIC 3000

16 October 2009

BY EMAIL

Dear Mr Jones

Re: Australian Payments Clearing Association Limited applications for revocation and substitution A91153 & A91154 - interested party submissions

I refer to your letter dated 1 October 2009, enclosing submissions received by the ACCC in relation to the above applications lodged by Australian Payments Clearing Association Limited ("APCA") on 13 July 2009, in connection with the Consumer Electronic Clearing System ("CECS").

In your letter, you requested a response to the contention of Australian Payment Systems ("APS") in its submission to the ACCC that APCA, through the application of the CECS Regulations and Manual, prevented a Mobile Funds Transfer system developed by APS from being adopted in Australia despite, APS argues, the system meeting requisite standards for approval.

Before responding to APS's submission, we would like to note that the concerns raised by APS are not directly relevant to APCA's current applications for revocation and substitution in relation to the CECS system. The provisions of the CECS Regulations and Manual for which APCA is seeking authorisation relate to initial certification of CECS Members and to suspension and termination of CECS membership and participation in the CECS system. APS's complaints do not appear to relate to those aspects of the CECS system.

Response to APS's submission

On 16 September 2008, Citibank, which is a CECS Member, requested APCA's approval of a proprietary function for the Security Control Module (SCM), as part of the proposed Mobile Funds Transfer system referred to in APS' submission.

Clause 8.6 of the CECS Manual specifies that APCA's approval is required for the use of proprietary functions for the Security Control Module (SCM) that are not equivalent to standard functions defined in the APCA document "APCA2000 Specification for a Security Control Module Function Set" ("APCA2000"). Citibank's request did not meet this requirement. The request was assessed by the Technical Security Working Group (TSWG) on 23 September 2008, but rejected due to concerns over the handling of the PIN.

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Citibank's proposal was then put forward to the Standards Sub-Committee on 11 November 2008, with the benefit of more information as provided by Citibank. Members of TSWG were in attendance to provide advice. The Sub-Committee rejected the proposal because it did not meet the requirements set out in APCA2000 and due to concerns over the handling of the PIN in a manner contrary to the design principles of CECS.

Although the Standards Sub-Committee has delegated authority to approve or reject such functions, the item was referred to the CECS Management Committee with a proposal from APCA management that Citibank be granted an exemption to allow it to trial the system. This recommendation was rejected on 20 November 2008.

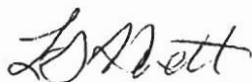
A secondary application was made by Citibank on 23 December 2008 to obtain approval of new software for use in EFTPOS terminals. This was considered by the Evaluation Review Sub-Committee on 9 January 2009 in line with the process set out in clause 2.6 of the CECS Manual. The proposal was rejected, again due to concerns over the handling of the PIN.

APCA followed the appropriate procedure for the consideration of Citibank's application and the Committees involved made their determinations in accordance with the CECS Regulations and Manual.

We reiterate that the concerns raised in APS's submission are a separate matter from APCA's current applications for revocation and substitution. However, we can provide more information on that matter if the ACCC considers it necessary in order to progress its review of APCA's applications.

Please do not hesitate to contact me if you have any further questions in relation to this matter.

Yours sincerely



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