

Governor Phillip Tower
1 Farrer Place Sydney NSW 2000
GPO Box 9925 NSW 2001
Tel (02) 9210 6500
Fax (02) 9210 6611
www.corrs.com.au

**CORRS
CHAMBERS
WESTGARTH**
lawyers

Sydney
Melbourne
Brisbane
Perth

15 July 2010

By email and post:

gavin.jones@accg.gov.au

Mr Gavin Jones
Director, Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Contact
Eddie Scuderi (07) 3228 9319
Email: eddie.scuderi@corrs.com.au

Dear Gavin

**Suncorp and Bendigo ATM network authorisation applications
(A91232, A91233)**

I refer to your letter to me dated 2 July 2010 attaching submissions from interested parties in relation to the applications by Suncorp Metway Limited (**Suncorp**) and Bendigo and Adelaide Bank Limited (**Bendigo**) for authorisation.

Suncorp and Bendigo's comments in response to the submissions are set out below.

Cashcard Australia Limited submission

Cashcard's submission appears to merely point out that the arrangement between Suncorp and Bendigo does not fall within the exemption in the access regime imposed by the Reserve Bank of Australia under the *Payment Systems (Regulation) Act 1998* (Cth).

This, of itself, is not a reason for the ACCC to refuse authorisation. Indeed, as Suncorp and Bendigo noted in the submission dated 24 May 2010 in support of their authorisation application (**Supporting Submission**), the ACCC has previously granted authorisation in relation to arrangements that do not fall within the existing legislative exemption.

Australian Securities and Investments Commission submission

In its submission, ASIC suggested that "one condition of the approval be that the parties agree not to charge their customers for using of the ATMs of the other members of the fee-free arrangement".

Suncorp and Bendigo submit that no such condition is necessary, because this is the essence of the arrangement between Suncorp and Bendigo.

As set out in section 4.1 of the Supporting Submission (and also confidential annexure B to the Supporting Submission), the conduct proposed by Suncorp and Bendigo is "not to impose a Direct Charge on" Suncorp and Bendigo customers. The term "Direct Charge" is defined in section 3.1 of the Supporting Submission to mean "a fee charged directly to

15 July 2010
Australian Competition and Consumer Commission
**Suncorp and Bendigo ATM network authorisation
applications (A91232, A91233)**

cardholders for an ATM transaction service, including withdrawals and balance inquiries.”
This includes the fee contemplated in ASIC’s submission.¹

Consumer Action Law Centre submission

Suncorp and Bendigo make no comment in response to Consumer Action’s submission.

Conclusion

None of the submissions received by the ACCC submit that the authorisations sought by Suncorp and Bendigo ought not be granted. Suncorp and Bendigo submit that the ACCC should grant the authorisations sought.

Confidentiality

Neither Suncorp nor Bendigo Bank claim confidentiality over any part of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Eddie Scuderi', with a long horizontal stroke extending to the right.

Eddie Scuderi
Partner

¹ Bendigo currently charges its customers certain fees (subject to rebate arrangements) for various types of ATM transactions. These fees will continue to apply whether the Bendigo customer uses a Bendigo ATM or Suncorp branded ATM, recognising that under the proposed arrangements, the Suncorp and Bendigo ATMs will be treated as one network. Relevantly, no additional or direct fee will be payable by a Bendigo customer by reason of the fact that the customer has used a Suncorp branded ATM to effect a transaction on their Bendigo account.