



3 November 2011

Australian Competition and Consumer Commission
Adjudication Branch
Dr Richard Chadwick
General Manager
23 Marcus Clarke Street
Canberra ACT 2601

Dear Richard

Comment on third line forcing notification (N95566) that was lodged by First Class Taxis Pty Ltd

Tyro Payments Limited is a Specialist Credit Card Institution authorised by the Australian Prudential Regulation Authority. Tyro is a member of the Australian clearing and settlement systems CECs and BECs and of the global credit and debit card schemes Visa and MasterCard.

It is Australia's only independent provider of merchant services for credit, scheme debit and EFTPOS cards and electronic Medicare processing services for patient paid and bulk-bill claims.

Tyro is the acquirer for the independent payment services provider National Billing Group Pty Ltd and its subsidiary Cabfare Payments Pty Ltd.

Tyro and Cabfare are challenging the dominant Cabcharge position in the Australian taxi and limousine payment industry offering innovative payment solutions building on the Tyro acquiring platform.

It is our understanding that Cabcharge has a market dominant position through its significant proprietary card base and through its presence in 98% of Australian taxis.

Tyro submits that the ACCC should reject the notification on the ground that the proposed third line forcing bundling the EFTPOS processing, credit issuance and terminal integration function will lessens substantially competition without providing demonstrated public benefit.

1. Tyro provides a customised real-time and online EFTPOS platform that addresses the main risks faced by the public in payment systems used in the Taxi Industry. In particular we address the lack of reliability and security present in the Taxi Industry payment systems.

The key issues in lowering risk to the public are:

- a) the elimination of any paper transaction; and
- b) the elimination of any off-line transaction through "store and forward" terminals; and
- c) the elimination of any cardholder and transaction data exposure.

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2. Tyro has delivered an acquiring platform that has been 100 per cent available.
3. Tyro has obtained PCI PA-DSS certification for its unique integration architecture which allows integrating the EFTPOS terminals operation into business software eliminating the expose of sensitive cardholder and transaction data.

Tyro, working with National Billing Group, has eliminated the main sources of fraud and data breaches, so prevalent in the industry but which have not been addressed in First Class Taxis Notification submission.

In its notification First Class Taxis Pty Ltd has specified the supplier criteria in a way that precludes any provider except the market dominant company Cabcharge from competing in the EFTPOS space. If approved:

- 1 The public benefit that Tyro and Cabfare already brought and intent to bring to the Australian community in terms of EFTPOS reliability, security, integration, mobility and efficiency will be eliminated by the proposed bundling of EFTPOS acquiring services with the credit role of the dominant proprietary Cabcharge card issuing business.

To enable innovation and competition, there needs to be structural separation between card issuing, acquiring services and EFTPOS payment functions.

- 2 The same is true for the criteria for hard wiring the EFTPOS terminals into First Class specified taxicab meters, which could very well be again supplied by dominant Cabcharge.
- 3 As a consequence of the proposal from First Class Taxis, drivers and consumers would have no more choice between different EFTPOS terminals and EFTPOS solutions. Cabcharge would provide the only EFTPOS solution and drivers would no longer have access to part of the distribution of the "service fee".
- 4 Consequently, there would be no more competitive tension on the quality of EFTPOS service provision and end user functionality.
- 5 There would be no more access for alternative EFTPOS service providers and no more investment into innovative solutions by other EFTPOS participants.

First Class Taxis Pty Ltd does derive private benefits in terms of efficiencies it has outlined but these are NOT public benefits that it has claimed.



This notification could be accepted by ACCC under the condition of a working access regime.

- 1 Cabcharge would undertake to grant access to independent EFTPOS service providers within a certain cost and timeframe so as to accept the proprietary charge cards if the provider is able to satisfy the technical security and operational requirements of the system.
- 2 Taxi cab metre providers and particularly Cabcharge would undertake to provide an integration interface (API) as well as determined cost and timeframes for the EFTPOS terminal integration.
- 3 A condition of exclusive dealings will then be that the participants have an EFTPOS and taxi meter provider alternative to choose from.

Such a decision and clarification on the part of the ACCC will promote an efficient and competitive EFTPOS industry.

All of this will be lost, if First Class Taxis Pty Ltd and subsequent other taxi fleet operators under more or less influence of Cabcharge were to coerce their drivers into bundled solutions that are barred from competition

In the cab and limousine payments industry, we need the ACCC to rather lessen the access barriers and eliminate the actions that jeopardise the achievements and sustainability of new entrants like Cabfare and Tyro.

Any other outcome will prevent or deter any new entrant from engaging in competitive conduct in the Australian cab and limousine payment space.

Please, let me know, if you need any further information.

Regards

A handwritten signature in blue ink, appearing to be 'Jost Stollmann', written in a cursive style.

Jost Stollmann
CEO