

Dr Richard Chadwick
General Manager
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Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Dr Chadwick

Visa and Mastercard: application for authorisation of PIN@POS implementation

I refer to the application by Visa and Mastercard seeking ACCC interim and final authorisation to implement a new joint arrangement where it will be mandatory, from 1 April 2014, for consumers to authenticate their identity for credit and debit card payments only by personal identification number (PIN) at the point of sale (PIN@POS).

My role as NSW Small Business Commissioner is to advocate on behalf of, and support small businesses by:

- Providing dispute resolution services.
- Delivering quality business advice through the Small Biz Connect program.
- Speaking up for small business within government.

In preparing my submission, I have consulted with Restaurant and Catering NSW and the Australian Hotels Association (NSW), which do not appear to be on the ACCC's list of interested parties for initial consultation.

There are likely to be benefits in the joint implementation of the PIN@POS mandate on the same terms and timing as identified in the application (for example, reducing fraud). However, it is important for the ACCC to recognise that:

- (a) If the anti-competitive detriments and concerns to small business (set out below) are not addressed, then there will be increased public detriments.
- (b) A significant proportion of the benefits is likely to accrue only to the applicants (for example, reduction in operating costs by removing paper based transactions), rather than to small business merchants and consumers, and should be considered as a private benefit rather than as a benefit to the public.
- (c) The two considerations above means that any overall public benefit from this arrangement will be reduced.
- (d) There are innovative point of sale payment services which are emerging which will bring greater choice and benefits to small business merchants and consumers, for example PayPal point of sale software and the Google Wallet mobile payment system.

Therefore, Visa and Mastercard should not have a blanket authorisation which entrenches its dominant position in point of sale operators and increase barriers to effective competition to new competitors and reduces the public benefits to consumers in the future. Accordingly, I submit the ACCC should only authorise the proposed arrangements on condition that the concerns for small businesses below are addressed.

Concerns for small businesses

(1) Private benefits to applicants

Implementation of PIN@POS will reduce overall system costs for Visa, Mastercard and other financial institutions compared with the current paper-based system. For example, there will be significant cost savings from removing paper transactions (reduced system and operational costs and reduced staff administration costs from collecting, verifying, recording and storing signed paper transactions). The financial institutions will unreasonably profit from this more efficient payment system (significantly reduced operating costs means increased profits) at the expense of small business merchants whose operating fees and expenses will increase or remain the same. Please note that the application does not refer to this issue.

To address this issue, I submit that the ACCC should authorise on condition that the applicants and financial institutions should not unreasonably profit from the implementation of PIN@POS, and evidence of this would be reduced fees and charges to small business merchants to reflect the reduced costs from removing paper based transactions. Otherwise there are significant private benefits accruing only to the financial institutions which small business merchants and consumers do not benefit from.

(2) Increased costs to small businesses

There will be detriments to small businesses from the new system including:

- (a) Increased costs for cafes, restaurants, bistros and other businesses to obtain new mobile terminals so that customers can enter their PIN at the table or a location away from the fixed terminal..
- (b) Where the small business retains the current terminal then customers will need to go to the counter to enter their PIN. This means that the layout of the counter area may need to be changed to accommodate extra customers coming to enter their PIN
- (c) Reduced income for small businesses and their staff as tipping will be reduced if customers can no longer add a tip when they sign the transaction record.
- (d) If tipping is permitted to be entered on screen before entering the PIN, there should not be increased costs for small business merchants to include this functionality to the terminal. In any case, this may deter many customers from tipping compared to paper based transactions.
- (e) Costs and disruptions due to implementation problems.

Implementation problems include:

- (a) Technical or operational problems with the terminals and payment system.
- (b) Complicated or confusing operating procedures for the terminals (for example, including clarity over the price payable, PIN not activated yet by the consumer).
- (c) Changes in recording keeping and reporting requirements.
- (d) Foreign issued cards without PINs should be catered for.

To minimise the costs and disruptions to small businesses, the applicants must ensure:

- (a) High quality, robust service level standards for the operating system to prevent errors, failures or breakdowns.
- (b) Reliable support services to assist in a smooth technical implementation.
- (c) Adequate engagement with small business representatives at an early stage to address operational concerns and develop optimal technical solutions and functionality for the new payment system including mobile terminals.
- (d) Adequate engagement with small business on appropriate training and education of small business merchants on using the new system (discussed further under sub-heading (c) below).

To address this issue, I submit that the ACCC should authorise on condition that the applicants must establish a formal working group to work through the concerns and views of small business merchants. Relevant small business representatives (e.g. industry associations) must be invited to participate on Working Groups on the implementation process.

I note that the Steering Committee (a joint industry advisory group) only comprises the two applicants and acquiring institutions. Given this, the Steering Committee must properly consider and have regard to any recommendations from the formal working group in making decisions on the implementation of PIN@POS. Further, the Steering Committee is likely to benefit from consulting with small business representatives as implementation is likely to be more efficient.

(3) Better engagement with small businesses

The education and training for the implementation must effectively engage with the wide range of small business merchants that will be impacted. This means:

- (a) Multi-channel engagement that is targeted at each business type that is impacted e.g. cafes, restaurants, petrol stations. A one-size-fits-all set of materials will not work. It is likely that a combination of easy to understand fact sheets, telephone support line, website and physical visits will be required.
- (b) Many small business operators prefer to speak to someone over the phone. Therefore adequate service support should be available over the dedicated telephone number to assist small businesses with any inquiries or problems.
- (c) Understanding that small business merchants will have different levels of technology and business proficiency.
- (d) Utilising relevant industry associations and communicating by trade journals and events.
- (e) It is preferable that changes to software and hardware be made by technical representatives at the merchant's premises, rather than remotely. This will minimise any technical problems and assist the merchant with any questions or misunderstandings about using the new system.

Thank you for giving me the opportunity to comment on this application for authorisation. Should you wish to discuss any of the issues raised in this submission please contact John Hin, Principal Advisor, Advocacy on (02) 8222 4835.

Yours sincerely



Yasmin King
NSW Small Business Commissioner
19 July 2013