

Public Register Version

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Your Ref:
Our Ref: KBE: 91739

Ms Marie Dalins
Director
Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email: *Hayley.Parkes@accc.gov.au*

Dear Madam

Visa Worldwide Pte Ltd & Ors – Applications for Authorisation A91379 and A91380
Our client: American Express Australia Limited

We refer to the previous submissions in this matter made on behalf of American Express Australia Limited (**AEAL**).

This submission addresses the application for authorisation (**Authorisation Application**) to enable:

- (a) Visa Worldwide Pty Limited, Visa AP (**Visa**) and MasterCard Asia/Pacific Pte Limited (**MasterCard**) (collectively, the **Applicants**), in conjunction with the specified financial institutions and AEAL (**Participating Third Parties**) to make and give effect to arrangements and/or arrive at understandings containing provisions that:
 - (i) MasterCard and/or AEAL will implement a PIN@POS mandate in terms and timing the same as, or substantially similar to Visa's current PIN@POS mandate; and/or

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- (ii) AEAL will implement a PIN@POS mandate that has the same or substantially the same effect as Visa's current PIN@POS mandate, although the terms of that mandate may be different to take account of the differences in the American Express card scheme.
- (b) the Applicants (or one of them) and Participating Third Parties, to make arrangements and/or arrive at understandings and give effect to arrangements and understandings which contain provisions that they, or some of them, will jointly fund the preparation, modification and implementation of a public communications strategy concerning the implementation of mandatory PIN@POS in Australia;
- (c) the Applicants (or one of them) and Participating Third Parties, to make arrangements and/or arriving at understandings and give effect to arrangements and understandings which contain provisions that they, or some of them, will jointly agree upon the terms on which the public communications strategy concerning the implementation of mandatory PIN@POS in Australia will be implemented; and
- (d) the Applicants (or one of them) and Participating Third Parties, to make arrangements and/or arriving at understandings and give effect to arrangements and understandings which contain provisions that they or some of them will adopt and adhere to the public communications strategy.

This conduct is referred to in this submission as "the Arrangements".

AEAL is supportive of the Authorisation Application and considers that a joint approach to the introduction and marketing of PIN @ POS, with the involvement of AEAL, will not result in any anti-competitive detriment and will bring the public benefits which Visa and MasterCard have outlined in their submission. Specifically, AEAL submits that, for the reasons set out below, an analysis of the future with and without the conduct for which authorisation is sought demonstrates that the public benefits of the conduct outweigh any anti-competitive detriment flowing from the conduct.

The future with the joint approach to the introduction and marketing of PIN@POS

AEAL considers that authorisation of the Arrangements will:

- allow the views of the 3 major card schemes to be considered, and discussed with the participating financial institutions, in the determination of the timing and processes involved in the introduction of PIN@POS, thereby eliminating scope for duplication of effort and wasted time and costs;
- provide for uniformity of processes at the Point of Sale (POS) terminals owned and operated by various parties, such that merchants and consumers will be able to conduct card transactions at various locations without differentiation between cards and card schemes, thereby reducing confusion for both card members and merchants;

- allow the Applicants, AEAL and the specified financial institutions to educate merchants and consumers on common processes and rules, which, will avoid duplication and consequently reduce time and cost spent in the education process; and
- ensure that it, as a smaller participant, will not be disadvantaged in the roll out of a mandatory PIN@POS, particularly insofar as timing, merchant education, technology development and the requirements of the participating financial institutions are concerned.

The future without the joint approach to the introduction and marketing of PIN@POS

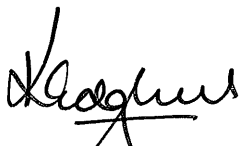
In the event that the Arrangements are not authorised, each of Visa, MasterCard and AEAL will need to separately introduce rules to provide for PIN@POS (which may or may not be mandatory in all cases) and to negotiate separately with each of the participating financial institutions on the terms of, and technical requirements for such introduction. Those institutions would, in turn, be required to put in place processes and systems which may differ and which would come into existence at differing times. Additionally, separate merchant and card member training and marketing campaigns would need to be conducted. This will add to the overall cost of the introduction of PIN@POS and ultimately delays the introduction of the change. In addition without a joint approach there is likely to be both merchant and card member confusion because:

- there will be different processes at POS terminals and among card issuers at various times, likely causing confusion at POS, slower checkout times in busy stores and possible discrimination against the cards of small scheme participants like AEAL, if merchants are not inclined to learn and implement multiple different POS processes; and
- merchants and consumers will need to be educated on each of the different processes.

AEAL is concerned that, as a smaller participant, where merchants and consumers are faced with multiple processes for card transactions, it may be particularly disadvantaged as it may be easier and more expeditious for merchants and consumers to use the cards of the majority participants.

AEAL looks forward to receiving the Commission's draft determination in due course.

Yours faithfully
TRUMAN HOYLE



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