

1 November 2013

The Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601



Refer: Ms Hayley Parkes

By Email to: hayley.parkes@accc.gov.au

Dear Ms Parkes,

**Visa Worldwide Pte Limited & Ors - Applications for Authorisation A91379 & A91380
- Amended Application for Authorisation**

We refer to the above Application for Authorisation, and particularly the Amended Application for Authorisation dated 10 October 2013 and as supplied in your email of 11 October 2013.

As you are aware, and as noted on the ACCC web site¹, the Commonwealth Bank (the Bank) is a strong supporter of the "PIN @ POS" initiative. As we have stated previously (in our submission of 17 July 2013), the Bank believes there is a strong public interest to support this initiative – based on risk management, co-ordination, customer and merchant impact, and operational efficiencies. We also note cardholder familiarity with the use of PIN for EFTPOS transactions.

However, the Bank is concerned by the late inclusion, in the Amended Application for Authorisation, of the concept and detail of "excluded card types" – as now included in paragraph 2(b)a.i.(c) of the Amended Application. We wish to bring this to the attention of the Commission, while at the same time expressing appreciation for the opportunity to provide these further comments.

Excluded Card Types

The above referenced (Amended) Application defines "Excluded Card Types" as being
*"Excluded Card Types means cards that may be issued to agreed categories of cardholders to accommodate specific individual cardholder needs"*².

The Bank supports the intent of this clause is to provide alternate solutions for card holders who are physically able to sign, but unable to remember or use their PIN. Our view is that it is

¹<http://transition.accc.gov.au/content/trimFile.phtml?trimFileTitle=D13+101090.pdf&trimFileFromVersionId=1127248&trimFileName=D13+101090.pdf>

²<http://transition.accc.gov.au/content/trimFile.phtml?trimFileTitle=D13+141991.pdf&trimFileFromVersionId=1127248&trimFileName=D13+141991.pdf>

challenging to define circumstances where an individual is physically able to sign but not use a PIN and the eligibility threshold of such persons for an exception process.

The Submission lodged with the Commission by St Joseph's Hospital provides useful context and identifies important medical and social conditions impacting potential PIN usage. That Submission³ notes:-

“Some of the groups ... are the very elderly who would at times experience difficulty in memorizing a PIN as against just signing their name. to ask some to enter their PIN on a keypad could present some difficulty especially if they have forgotten to take their glasses to go shopping. This could lead to security issues as some may well ask the sales person to enter their pin for them. Also for the elderly people they will also be at risk of financial exploitation if they give their pin number to other people.

Patients who have suffered a stroke and are aphasic can sometimes write but not remember numbers or even write numerals. Others who have suffered some other cognitive deficit can sometimes write but would have difficulty in sequencing numbers and would be unable to key in their PIN without assistance. This again could lead to security issues if they had to ask someone to key in their number for them. People with Short Term Memory problems could possibly forget their PIN number and this would also cause problems as they would have to rely on someone else to access their credit card funds and the other party would now know their PIN number now.

Patients who have experienced major life changing disabilities or who have undergone a lengthy hospital admission would find it difficult to remember pin numbers and this may mean they have problems using their credit card.”

The Bank appreciates the seriousness of these, and other, medical conditions that sometimes confront some of our customers. Where customers are unable to memorise numbers or use PINs, the Bank's approach is to consider the customer's individual circumstances. It may be that the underlying disability and/or medical condition is such that it would be appropriate for the individual to have an attorney or guardian appointed. We provide our customers the option of a Power of Attorney process, which allows the cardholder to appoint a third party to manage their finances responsibly. We believe that the position we have taken is a responsible solution that potentially minimises the risk to the customer and is preferable to a PIN exclusion approach.

In the industry group discussions up until September 2013, there seemed to be a clear agreement that no exceptions will be created to preserve the consistency of the consumer and merchant experience as with EFTPOS, where there are no such exceptions to PIN.

We believe that this, proposed, exception is unwarranted for a number of reasons and needs to be approached with caution, as it has the potential to create confusion, complexity and inadvertent consequences in the market place.

- i. The 'Excluded Card Type' in the Application has been broadly defined – this may encourage some card issuers to exploit this loose definition. For example, it could be argued that an individual card holder need could arise if the cardholder has a *preference* for signature so that he/she does not have to remember many different PINs. The way the clause is currently worded, it will not stop a niche card issuer providing and promoting signature based cards to create a proposition of differentiation as opposed to its intended use.

³<http://transition.accc.gov.au/content/trimFile.phtml?trimFileTitle=D13+107339.pdf&trimFileFromVersionId=1127248&trimFileName=D13+107339.pdf> (Emphasis added)

- ii. This grey area, could, we believe, encourage some card issuers to use this as an easy way out - a “catch all” bucket for those customers who have been unable to be converted over to mandatory PIN. This is detrimental to the overarching principle of moving towards an industry wide, mandatory PIN.
- iii. Although the intent appears to be for the “severely disabled”, there has been no attempt to articulate under what circumstances a person will be able to qualify for a ‘signature only card’ as an exception.
- iv. The ‘Excluded Card Type’ approach will likely lead to unnecessary confusion in the market place.
- v. There is no clarity as to who will wear the liability for the signature based card - and if there will be any differential in the interchange fee treatment in the event that a PIN exclusion is supported. We strongly believe that should an exclusion be sanctioned, the Schemes include in their mandate the clarification as to which party should carry the ultimate risk. If there is any liability and/or interchange fee shift, this may require significant system development for the card issuer.
- vi. With the potentially disabled cardholder in mind, the convenience and prevalence of contactless transactions for less than \$100 today, without the requirement for PIN (or signature today), could be considered as a solution to cover the majority of every-day transactions. For higher value transactions which require PIN, an alternate process such as our Power of Attorney process, may provide a better safeguard to protect these customers.

Should the ‘Excluded Card Type’ model be endorsed, we note:

- i. If the exceptions process is implemented and all issuers have the option to support ‘signature only’ cards, the Bank currently has no plans to support this exception and we instead propose to continue to apply our existing Power of Attorney process.
- ii. Of course, if we do not offer this exception solution to our customers in such a need, but competitors do offer it, this could raise a competitive threat for us – in which case we would need to again carefully consider our options.
- iii. If the card type exclusions process is not sanctioned by the Commission (following this, and potentially other submissions), we confirm that we plan to progress as originally proposed with the PIN @ POS initiative – we believe this to be the preferred outcome shared by the majority of card issuers.

As is evident above, the Bank supports the original scope of the PIN @ POS initiative and strongly supports consistency with EFTPOS and consistency of customer experience.

The Bank is a subscriber to the Australian Bankers’ Association Code of Banking Practice⁴ and we note that clause 7 states:

“7. Customers with special needs

We recognise the needs of older persons and customers with a disability to have access to transaction services, so we will take reasonable measures to enhance their access to those services.”

We believe that the Power of Attorney process currently employed addresses this point in a manner that is superior to the proposed “exceptions” model. Further, the development of contactless transactions which do not require a PIN or signature for under \$100 is also an example of how the Bank and the industry have enhanced the access for some customers with special needs.

To allow “signature only” cards as an exception is likely, in our view, to create confusion, the potential for some card issuers to exploit this as a “loop hole”, and may lead to inadvertent

⁴ <http://www.bankers.asn.au/Industry-Standards/ABAs-Code-of-Banking-Practice/Code-of-Banking-Practice-2013---Online-Version#1c7>

consequences such as an “individual customer need” cited in an card application being misconstrued for “customer preference” – for example, customer inertia or perceived inconvenience.

Although we understand that the intent of the amended Application with the ‘excluded card type’ inclusion is to cater for the needs of disabled customers, the exception has not been adequately qualified nor does it address issues such as how customers will be qualified as being entitled for such an exception, nor more technical matters such as interchange rates or liability shifts.

As noted above, the Bank appreciates the seriousness of medical conditions that sometimes confront some of our customers. However, we believe that a signature based exceptions approach is sub-optimal – we believe that customers affected by serious medical issues are better protected by other solutions such as the use of our existing Power of Attorney process. This is complemented by the availability of contactless payment options. All in all we believe this to be preferable to a complex, and poorly defined, “exceptions” approach.

In summary, the Bank feels strongly that the exception requested in the Amended Application should not be endorsed in its current form and that, as a minimum, further debate is warranted.

We recommend that the Applicants mandate “no exceptions” (with the Commission’s imprimatur) – leading to a consistent customer experience and removing unnecessary complexity. We also believe strongly that if the intent is to cater for the needs of a small number of genuinely disabled customers, these needs can be met in a more responsible manner with alternative solutions taking into consideration the unique circumstances of individual needs.

Thank you again for the opportunity to comment on these matters. We remain available to discuss these comments at any time, and to that end ask that you contact the undersigned.

The Bank appreciates that this Submission will be posted on the ACCC’s public register.

Yours sincerely

[Signed]

Stuart Woodward
General Manager
Representation