

## **Restriction of publication of part claimed**

Confidential information redacted from pages 11 and 12.

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# **Bendigo and Adelaide Bank and others applications for authorisation A91546 & A91547**

Response to questions raised by the ACCC

9 March 2017

## Summary

### **NFC access will provide greater public benefits than any alternative**

Access to the NFC function on the iPhone would allow mobile wallets to compete effectively on the provision of payment services, on complementary functions and features, and on the integration of features of a wallet in all kinds of use. Competition across all these dimensions would provide public benefits far beyond what can be achieved without access to the NFC function, including differentiation in mobile wallets, mobile payment mechanisms and NFC services beyond payments.

Apple already provides access to many third-party apps that send and receive information through iPhone hardware features such as the camera, microphone, speaker and Bluetooth interfaces. These apps can access the iPhone's hardware without having to launch an Apple app. For example, a third party camera app can capture photos itself, and does not need to launch the Apple Camera app to take this step. As a result there has been a proliferation of innovative apps that use the iPhone camera for purposes Apple could not have imagined. There is no reason why the NFC function should be treated differently, and the Android platform shows that multiple applications can use the NFC function as seamlessly as they can use any other hardware feature.

### **NFC access will make possible competitive options for integrated loyalty programs which will benefit customers, merchants and wallet providers**

Loyalty programs are seen as a key driver of mobile wallet adoption. Traditionally, Australia's major loyalty programs have made use of barcodes printed on the reverse of a card and read by optical scanners at checkout. These scanners cannot always read barcodes displayed on a mobile phone screen. In any case, paying with NFC and then scanning a barcode is a two-step process which is slower and less convenient than a single tap for both payment and loyalty.

Based on the experience overseas, the use of NFC integrated with loyalty programs is expected to become an area of growth and innovation for mobile wallets. As the benefits of integrated "one-tap" loyalty and payment services for customers, merchants and wallet providers become more widespread, the gap between NFC capable mobile wallets and "old style" wallets without NFC access will widen. Providing NFC access on the iPhone platform will ensure there are competitive options for mobile loyalty programs for consumers and merchants into the future.

### **Competition between mobile wallets and mobile payment services will drive innovation and benefit customers**

Internationally, many card issuers are participating in multi-issuer wallets such as Apple Pay and Android Pay as well as providing NFC payments through their own mobile wallets on the Android platform. They have incentives to offer their customers a choice of mobile wallets including multi-issuer wallets, but they also have the ability and incentive to make their own NFC mobile wallets as attractive as possible in order to build customer relationships, to make sure customers have access to mobile wallets that meet their particular needs, and where possible to give customers the option to make payments through lower-cost methods.

The same developments would be possible in Australia, as NFC access to the iPhone would mean that there would be sufficient economic incentives and efficiencies to make such innovation possible. This would not need to be limited to competition and innovation in issuer mobile wallets or indeed to payments. It would include mobile wallets – or features in mobile wallets – developed by retailers, telecommunications providers, transit authorities, government departments and financial technology providers.

**NFC access would allow all customer preferences and their clear demands to be met**

In Australia, there is customer demand for a range of mobile payment and mobile wallet services, and issuers are particularly well placed to meet that demand. This demand has been identified in a number of industry surveys, but it is also backed up by the behaviour of consumers.

If the limitation imposed by lack of NFC access for iPhones were removed, the most likely (and economically rational) behaviour of issuers would be to quickly develop products to meet that demand. There are strong economic incentives for issuers to offer customers what they really want. Australian issuers also have the technical capability to offer sophisticated mobile payment products (with full integration of services that are uniquely suited to the requirements of Australian customers) and a history of developing innovative payment products well ahead of overseas markets.

In this context, it is difficult to see any sound basis for declaring that innovation in mobile payments is uncertain. Without NFC access, there will be no competition and the rate of innovation in mobile payments for iPhone customers will be solely dictated by Apple (in accordance with own priorities and largely undifferentiated around the world). With NFC access, Australian issuers, merchants and innovators will have the opportunity to continue developing products and services that address the specific needs of Australian consumers and continue to make Australia one of the most sophisticated payment markets around the world.

**1 Increased competition in mobile wallets and mobile payments**

Providing access to the NFC function will allow mobile wallets to compete effectively in a range of dimensions and circumstances. They will compete on the payment function (which is fundamental to the operation and viability of a mobile wallet), as well as competing on their complementary (non-payment) features. They will also compete on the quality and extent of integration between payment and non-payment features and functions – for example by combining payments and loyalty in a single tap, using banking information to select the most appropriate payment card, or in the future capturing detailed electronic receipts directly over the NFC interface.

This is in direct contrast to the likely scenario if authorisation is not granted, that is, where there can be no competition with the Apple Wallet and no innovation other than what Apple decides is appropriate for Australian consumers.

***NFC access is essential for meaningful competition between mobile wallets***

The ACCC has asked whether, when comparing an integrated NFC solution such as an Android issuer app with a solution that requires switching from another mobile wallet to the Apple Wallet to pay, any steps required to unlock the phone and launch the mobile wallet should be discounted.

As the applicants have demonstrated, even in these limited circumstances the need to switch to Apple Wallet to make a payment introduces a number of steps that increase friction and reduce convenience, since customers:

- have to leave their banking app and switch to a new application;
- then have to take an additional authentication step within the Apple Wallet; and
- then need to take additional action to return to the banking app.

In this context, it is not correct to say that this method is “almost identical” to an integrated NFC banking app of the kind that is available on the Android platform.

However, the larger issue here is that the majority of mobile payments will *not* involve a user unlocking their phone and opening an app before making a payment. That will be an important scenario, and may be the scenario in which a fully featured mobile wallet can add the most value and differentiation. However, most payments – and many of the other NFC functions that a mobile wallet can potentially perform – will need to be performed in a manner of seconds and involving as few steps as possible, as speed and convenience are paramount when in a queue at a supermarket checkout or café, or a transit turnstile or a busy tram or bus.

If a mobile wallet cannot be used in a one-step tapping motion, it is not likely that it will ever be used to make payments, as the necessary familiarity and convenience will never arise. Apple recognises this when it suggests that the approximately 3500 issuers who do not use the Capital One solution consider that directly using Apple Wallet is preferable to the Capital One approach.

By contrast, access to the NFC function will allow customers to use their preferred wallets by just tapping their phone against a terminal. The applicants have set out a number of ways that mobile wallets can differentiate themselves even in the simple process of tapping to pay. For example, mobile wallets could intelligently present a particular payment card based on the user's location, on their previous purchases, or on their bank balances and credit limits. As discussed below, they could present an NFC loyalty card at the same time – without requiring every merchant to add their cards to the Apple Wallet. They could make contactless payments using a range of payment methods, and provide discounts, rebates or reward points for payments made through that mobile wallet.

Mobile wallets with access to the NFC function could also be used in situations other than payments where speed and ease of use are just as important. These would include access to transit – including public transit and also airline boarding – as well as to the home, office or car. Although many of these applications have not been commercialised yet, they are hardly speculative. There is a real and immediate public benefit in allowing an environment in which these innovations can be given their best chance of success by providing access to the whole base of potential customers.

In these circumstances, the ACCC's concern that the magnitude of the benefits of NFC access may be limited by the option to use Apple Wallet for payments cannot be sustained.

### ***Apple's refusal to provide NFC access is inconsistent with its own policies and practices***

It is important to recognise that the NFC function is just one of many ways that an iPhone can send and receive data through a particular combination of hardware and software. Perhaps the simplest analogy is that of the camera, which feeds data to the operating system where it can be used by different apps, from dedicated camera and photo organising apps to social media apps such as Instagram, Facebook and Snapchat, augmented reality apps such as Pokémon Go, and apps that recognise and translate written text in real time.

Some of these apps could still exist even if they could not access the iPhone camera but relied on images taken and saved by the Apple Camera app. However, most of these apps would be severely degraded in functionality and many would not be possible at all. Even a shortcut to launch the Apple Camera app would not be a substitute for real-time access to the full image data.

Other hardware that receives and/or transmits data includes the iPhone's speaker and microphone, its Bluetooth interface, its accelerometer and gyroscope, its fingerprint scanner and its proximity sensor. Apple allows third party access to all these devices. Access to the NFC function would allow a multitude of innovative uses of the kind that have developed in relation to these other functions. There is no reason why the NFC function should be singled out and innovation prevented in this one area.

### ***Now is the time to correct this imbalance and allow competition to flourish***

The ACCC may be concerned that it is being asked to make a decision that will affect a nascent industry, or that issuers in other countries such as the United States or United Kingdom have already

decided that they would rather participate in Apple Pay than hold out for the possibility of developing their own mobile wallets for the iPhone – that is, that it is either too early or too late to intervene.

While mobile wallets are a relatively recent innovation – at least in Australia – they are building on a foundation of NFC technology that has been steadily growing over the last 10 years and is now unquestionably the dominant payment mechanism in Australia with 80% of face-to-face transactions (and is itself built on an even longer-established electronic payments network).

The technology that makes NFC payments possible has been built in Australia over many years (with significant investment from banks and merchants) and the enhancements provided by mobile wallets in terms of security and convenience will only cement the popularity of contactless NFC payments. It is unlikely that another in-store payment mechanism will take their place in Australia in the near future.

Smartphones are also far more likely to become the next significant form factor that customers use to interact with the NFC payment infrastructure than any alternative that is currently available or planned.

Put simply, almost every Australian already has a smartphone, which they already carry with them almost all of the time. Those smartphones are already capable of performing all of the functions of a mobile wallet and are more flexible and configurable than any alternative device. Few customers will go to the inconvenience and expense of purchasing (and carrying) an additional device – and in the case of Plastic,<sup>1</sup> paying an ongoing subscription fee – when they can use a device they already own and carry with them. As long as the smartphone retains its primary position as the device that Australians carry with them everywhere, no new device is likely to overtake it in mobile payments.

The conditions are only now emerging for significant adoption of mobile wallets worldwide. Visa, Mastercard and American Express now have sophisticated digital enablement programs that did not exist before issuers signed up with Apple Pay, and it is easier than ever for large and small issuers to develop their own mobile wallets. Important aspects of this competition and innovation are examined below.

## 2 Loyalty programs and NFC potential

Loyalty programs have long been seen as a key driver of mobile wallet adoption, as integration of payment and loyalty is seen as one of the most obvious ways to distinguish a mobile wallet from a contactless card payment. As the Federal Reserve found in 2013:

*In terms of the value proposition to consumers, the significant number of mobile users who reported an interest in using their phones to receive discounts, coupons, and promotions or to track rewards and loyalty points suggests that tying these services to a mobile payment service would increase the attractiveness of mobile phones as a means of payment.<sup>2</sup>*

Integrating loyalty programs with mobile wallets can have benefits for consumers, merchants, and issuers and other mobile wallet providers. Consumers will gain more convenient access to these programs, increasing the likelihood that all purchases will be recognised and rewarded. Merchants will benefit from reduced friction, increasing the use of loyalty programs and the ability to more closely tailor rewards and benefits to individual customers. Issuers and other mobile wallet providers will benefit from increased mobile wallet adoption and stronger relationships with users.

Historically, most loyalty programs have used payment mechanisms other than NFC, with barcodes and optical scanners being used in a number of countries including to some extent Australia. These barcode-based loyalty programs have made the transition to mobile wallets with varying results.

<sup>1</sup> Plastic card is a separate payment device with a touch screen. It contains a magnetic stripe and an EMV chip, as well as NFC hardware to enable contactless payments: It will retail for \$180 (including the card, the card reader and the card charger (the card needs battery power to function as a payment solution), as well as a 12 month subscription). The product is still at the prototype stage (although they are taking money for pre-orders) and its expected shipping date has been repeatedly delayed.

<sup>2</sup> Board of Governors of the Federal Reserve System, “Consumers and Mobile Financial Services”, March 2013.

For example, mobile applications such as Stocard and the Commonwealth Bank app can scan and reproduce barcodes on a smartphone screen. However, due to the differences between a printed barcode and a barcode displayed on a reflective screen and variations in scanning equipment at the point of sale, a number of key retailers' loyalty programs – such as Woolworths Rewards – cannot reliably be integrated into a smartphone. The Coles Mobile Wallet requires a barcode to be physically attached to the mobile phone in order to integrate its Flybuys loyalty program.

These difficulties mean that, while mobile barcodes are generally faster and easier to deploy and distribute than printed barcodes, they can be slower to present and register at the point of sale or access. This difference can be observed not only at retail checkouts but also at airline boarding, where time is of the essence and scanning a mobile phone barcode can take several more attempts than scanning a paper boarding pass. NFC would solve this issue and is more secure than barcodes.

Internationally a number of banks have already integrated loyalty programs with their NFC mobile wallets on the Android platform. For example:

- Turkish bank **Garanti** launched the Bonusflaş app which combines loyalty programs and promotions with personal finance, online shopping and – on the Android platform – in-store NFC payments.
- **Orange Cash** in France and Spain has an application for Android and Windows Phone that “offers customers retail geo-location and special offers from our partners” as well as contactless NFC payments at the point of sale.
- The **ICA Norrviken** supermarket in Stockholm has incorporated dynamic NFC tags in shelf labels and smart posters allowing customers to view promotional deals, discounts, competitions and detailed information about products by tapping their phones against the tags:

*Customers can get more information about the products — detailed lists of content for people with allergies, for instance. As the tags are dynamic and can be redirected, we can add promotional deals, discounts, competitions and other promotional content.<sup>3</sup>*

- **Pivo**, the Finnish mobile wallet developed by OP-Pohjola, combines personal finance with NFC payments and loyalty rewards through K-Plussa, Finland's largest loyalty program. It allows payments and rewards with a single tap as well as accommodating vouchers and promotions that do not use the NFC function. Pivo is Finland's most used banking app and has won a number of design awards.

Emphasising the importance of combined loyalty and payment services, Stocard itself is now seeking to integrate its loyalty app back into payments:

*According to [co-founder and CEO Mark] Handlos, the start-up is now edging closer to its objective and the new-found support should help Stocard finally make the jump into the mobile payments space.*

*“It will really be us closing the loop on what we started, while a lot of our users don't need to rely on the physical card they can't finalise the transaction on the app,” he said.*

*This year, Stocard will launch a mobile payment capability, offering users a holistic shopping experience — from browsing offers to paying at the point of sale — within the Stocard app.*

*“We will work with Apple Pay, Android Pay and other payment partners to provide a seamless service,” Mr Handlos said.<sup>4</sup>*

<sup>3</sup> “Swedish supermarket uses NFC price tags to promote deals and discounts”, NFC World, 8 December 2015.

<sup>4</sup> “Investor loyalty on the cards for Stocard”, *The Australian*, 7 February 2017.

However, Apple Pay and Android Pay will not allow Stocard customers to finalise a transaction “on the app” – only access to the NFC function will allow that.

Apple clearly sees that NFC-based loyalty cards will be increasingly important in the future and has worked with merchants and loyalty programs such as Walgreens, Kohl’s and Coke Rewards to implement a one-tap solution to payment and loyalty.


In this context, a future without access to the iPhone’s NFC function is likely to result in the Apple Wallet being the only loyalty option as well as the only payment option for customers who use iPhones – and for the merchants who wish to engage with those customers. In other words, a future without competition. By contrast, access to the iPhone’s NFC function would allow a future in which customers and merchants have a real choice of mobile wallets to suit their needs and preferences.

### 3 Incentives to use issuer NFC wallets

NFC access would also allow and encourage issuers and other mobile wallet providers to compete by offering incentives for customers to use particular wallets. This would benefit the customer who receives a discount or rebate, the issuer through increased customer engagement – and the public as a whole through increased competition driving efficiency and innovation.

#### *International examples*

A number of issuers internationally have offered financial and other incentives for customers to use their NFC mobile wallets on the Android platform. For example:

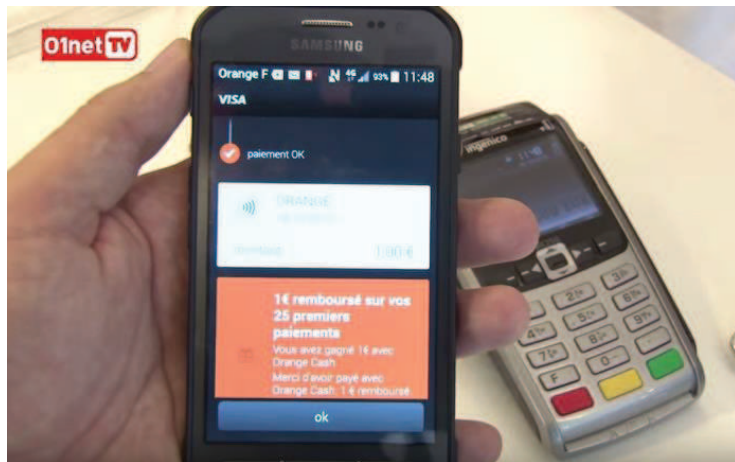


The screenshot shows a mobile app interface for SingTel Dash. On the left, there are three categories: 'SHOP', 'DINE', and 'COMMUTE'. In the center, a smartphone displays 'Up to 5% Cashback'. To the right, the text reads: 'Up to 5% Cashback when you Commute, Shop or Dine!'. Below this, it says: 'Commute, shop or dine - Singtel Dash offers up to 5% Cashback as you spend! So you can worry less about payments, and more on the rewards...'. Further down, it lists 'Enjoy 5% Cashback at these merchants:' followed by a bulleted list: FairPrice, Comfort, CityCab and Prime taxis, Cheers, Watsons, Lezeda, and 'Plus, all your bus and train rides (when paired with a Singtel Transit NFC SIM)'. At the bottom, it mentions 'Receive 1% Cashback at F&B outlets, shopping and convenience stores.'

- **SingTel Dash** in Singapore, a venture between mobile carrier SingTel and Standard Chartered Bank, offers a wide range of discounts and cash back promotions to customers paying with its NFC app. It also provides mobile access to Singapore’s closed-loop transit system on compatible Android handsets, payments in taxis and retailers and location-aware notifications about promotions at nearby retailers. Current promotions include up to 5% cashback at selected retailers and 1% cashback on all other retailers.

Standard Chartered Bank makes its cards available in Apple Wallet, Android Pay and Samsung Pay but these inducements are exclusive to Dash. SingTel Dash is also available on the iPhone but requires customers to type in a unique number displayed at the checkout on their phone in order to make payments, and cannot be used on public transit with an iPhone. SingTel Dash does not use the international card schemes but uses its own NFC payment system, which will incentivise promotions and cashbacks to pass on cost savings compared to using the international card schemes (and the additional costs of using the Apple Wallet).

- **Orange Cash** in France offered a 1€ cashback for customers' first 25 transactions using its NFC mobile app on Android, with ongoing cashback available from different retailers from time to time. These offers are now also available from Orange Cash virtual cards loaded into the Apple Wallet but were initially introduced on the Android platform.



- **UOB Mighty**, the mobile banking and mobile wallet app from United Overseas Bank in Singapore, offers personal finance, dining reviews and bookings, information about credit or debit card deals throughout the region, and NFC mobile payments on the Android platform. It offered cashbacks and promotions on NFC payments made through the app before the introduction of Apple Pay and Android Pay in Singapore; now it participates in both multi-issuer wallets and offers different cashback and promotions for all three mobile wallets.



- As set out in the applicants' recent submission, **ICICI Bank** in India provided a 20% cashback incentive for users of its Pockets Android NFC mobile wallet. Although Android Pay and Samsung Pay have not yet launched in India, there are a number of highly successful mobile wallets, including PayTM with more than 75 million downloads on Android, in which all the banks including ICICI participate. The Pockets app is a good example of issuers offering incentives for cardholders to use an issuer NFC app rather than another wallet, promoting competition between issuer wallets and third-party multi-issuer wallets.

**pockets**  
by ICICI Bank

**Get 20% cashback\* on 'touch & pay' on Pockets app**

Use ICICI Bank Credit or Debit Card

GET POCKETS

\*Maximum cashback is up to ₹1000. T&C apply.

All of these examples involve issuers offering their customers choice by participating in some or all of the third-party multi-issuer mobile wallets – and even in a range of payment networks beyond the



traditional card schemes – while also developing their own mobile wallets which may offer greater integration with banking and personal finance functions or may meet particular demands unique to their customers, such as transit in a city with a closed-loop system, or rewards with a local retailer.

### ***Application to Australia***

Australian banks have the same incentives and have a history of world leading innovation (particularly in payments). The Applicants developed their own NFC mobile wallets on the Android platform before any of the current multi-issuer mobile wallets were announced. They now participate in or are in negotiations with multi-issuer wallets and look forward to collectively negotiating on the issue of NFC access with Apple and offering Apple Pay to their customers.

They also expect that other providers of mobile wallets and other NFC functions would emerge to meet particular demands. These might be merchants, telecommunications providers such as Optus Pay in Australia or SingTel and Orange internationally, and financial technology startups such as Myki Plus, an NFC app to interact with Melbourne’s public transit cards – but only on the Android platform.

Some of these international examples have relied on the Android platform and on non-NFC point-of-sale technologies such as PIN or barcodes. These countries have less NFC infrastructure in place than Australia and Android has a much greater presence. For example, Android’s share in France is well over 70%<sup>5</sup> and in India is as high as 97%.<sup>6</sup>

These alternatives are unrealistic in Australia, which has the world’s highest adoption of contactless NFC card payments and one of the world’s highest iPhone market shares, particularly among customers likely to use mobile payments. ING Direct recently confirmed that 70% of customers who use its banking app use iPhones,<sup>7</sup> which is consistent with the Applicants’ experience.

That is, in Australia potential mobile wallet providers other than Apple are locked out of the established payment infrastructure in respect of the clear majority of relevant customers. NFC access on the iPhone would greatly enhance these opportunities and provide substantial public benefits.

If competing mobile wallets were allowed to access the iPhone’s NFC function, there would be more opportunities for cashbacks and other promotions than mobile wallets on the Android platform. This is because, by encouraging a customer to use an issuer mobile wallet rather than the Apple Wallet, an issuer would avoid the Apple Pay transaction fee. It would therefore have an incentive to share some or all of that saving with the customer in the form of discounts, cashbacks or promotions. It would also have an incentive to invest that saving in developing new functions and features to encourage customers to use its mobile wallet and to compete more effectively with the Apple Wallet.

NFC payments that took advantage of lower-cost local payment schemes, such as eftpos, would also incentivise issuers and retailers to reward customers who used those lower-cost schemes by sharing cost savings with them.

In this context a question may arise as to the promotions that a number of issuers and merchants have conducted – and continue to conduct, for example in Japan this month – connected with payments made using Apple Pay. The Applicants understand that these promotions are funded by Apple or contractually required of issuers and they do not believe that these promotions reflect the same kind of competitive response that multiple wallets on a platform would provoke.

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<sup>5</sup> Kantar WorldPanel.

<sup>6</sup> Fortune, “Why Apple Is Having So Much Trouble in India”, 5 August 2016.

<sup>7</sup> “Apple Pay broadens reach as Macquarie, ING Direct sign up”, *The Australian*, 21 February 2017.

#### 4 Customer demand for mobile wallets from issuers

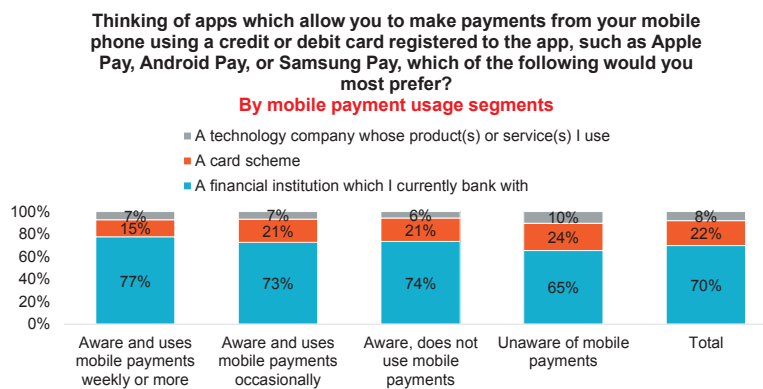
Survey data continues to indicate that if customers had the choice, many would prefer to use an app provided by their financial institution (as opposed to Apple Pay or Android Pay).

Importantly, the proportion of customers who prefer an app provided by their financial institution is highest among customers who already use mobile payments on at least a weekly basis. This would necessarily include customers who already use Apple Pay and would prefer it if they could make payments with a mobile wallet provided by their bank – representing significant demand that the applicants and other banks wish to meet but that cannot be met without NFC access.

AUSTRALIAN DIGITAL BANKING PROGRAM

### Mobile Payments

Those who are already highly engaged in using mobile payments are more likely than other segments to prefer financial institutions which they currently bank with



RFi Research

Base: Smartphone owners (Sep-16, Aware and uses mobile payments weekly or more: n=111, Aware and uses mobile payments occasionally: n=117, Aware, does not use mobile payments: n=823, Unaware of mobile payments: n=975, Total: n=2,026)

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This is another reason why relying on the Apple Wallet to make card payments will not be a satisfactory solution for a substantial proportion of customers. Customers who trust their bank more than a technology company to provide mobile payments are not going to be satisfied with a solution that insists on interposing a technology company at the point of payment.

#### 5 Westpac experience with Android Pay and issuer NFC apps

Westpac's recent experience with its own mobile Tap and Pay solution<sup>8</sup> compared to Android Pay is consistent with the proposition that customers value choice, and a significant proportion of customers will choose to use an issuer mobile wallet to make payments, demonstrating the public benefits that will arise from giving customers choice and allowing a range of mobile wallet providers to meet consumer demand.

Westpac joined Android Pay in respect of its Mastercard cardholders (enabling its entire debit and premium credit card portfolios) in December 2016, at the same time as it launched its Android Tap and Pay mobile wallet for its St George customers. The St George mobile wallet is available on recent Samsung mobile phones, like the Westpac mobile wallet that launched in 2014.

<sup>8</sup> Tap and Pay offers integrated NFC payments on eligible Samsung mobile phones using the Android operating system.

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The ACCC has separately received information from CBA about the BankWest implementation of Android Pay.

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