

The latest response from the Applicants seems to be assuming what is not established.

That is, that allowing the authorisation sought for collective negotiation equals third party access to the NFC radio in an iPhone. This not true.

From there the Applicants go on to argue for any number of advantages and innovations such access will bring. The particular examples show that loyalty cards and other features are a growth area for mobile banking but they do not show that operating within a bank specific application brings any advantage to consumers not already provided by the payment delivery method of Apple Pay.

Apple has stated, repeatedly, that it is not going to provide third party access to the NFC radio.

If there was some evidence that allowing collective negotiation by the applicant banks with Apple might convince Apple to permit access then the application for authorisation may have some merit.

The only evidence so far presented is to the contrary: Apple do not and will not provide the access sought.

[...]

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, [...]

Yes there is. Apple has determined that the integrity and security of functions associated with the NFC radio is assured by maintaining control over access to it themselves.

It is true that third parties can access the camera, the microphone, bluetooth and so on as Apple has allowed access. It surely has done so on the basis of an assessed risk and that they have provided specific software mechanisms to facilitate the access. The access provided is not a free-for-all, it incorporates a carefully calibrated assessment of the threats and the risks. For example unauthorised access to camera or microphone for surveillance purposes is considered a risk. Apple have built systems and methodologies to limit that in line with the level of risk. With the NFC radio, as they have said, they believe there is too great a risk to justify the access. It is necessary to control that access so integrity of its use can be maintained.

As has been previously mentioned by both law enforcement and academic research papers discuss offer likely compromises, and some cite the "dark net" as repositories for

practical exploits related to the available access to NFC hardware on the Android platform.

The applicant banks surely understand risk assessment. Unauthenticated contactless card payments are limited to \$100. Larger amounts are seen as risk given the trust model.

If the applicants want access to the NFC hardware on the iPhone, do they also want access to it on the Apple Watch?

Do they require some customised aspect so that access to Apple Pay via the fingerprint sensor on Apple laptops fits with their requirements?

[...]

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.

Access to loyalty programs is already available via the Apple Pay mechanism. It is already part of the seamless operation of Apple Pay on the device. Incorporating access to a loyalty program via a application wallet from a particular bank does nothing to enhance the customer experience. It simply means that the customer needs to open an application to access a loyalty card that is otherwise available via the Apple Wallet, accessible from the Lock Screen, without the extra steps (unlock the phone - potentially typing a passcode, or using a fingerprint; opening the app; choosing the payment option).

[...]

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

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

Yes but the benefit is not customers because of their need to operate within the confines of a particular bank application. This is a disadvantage to consumers because they need to switch between applications for no reason beyond the restriction of availability of a particular program by each associated bank's app. The advantage of the central location and provisioning of cards by the Apple Wallet is the simplicity of doing that. Adding payment cards (eg public transport) that are unrelated to banking to a bank app is just bizarre.

[...] 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.

The scope for innovation within application wallets offered by banks is unchanged. The Applicants seem to be conflating the function of a mobile bank application with a payment method.

Each day consumers use their contactless card to tap at a merchant terminal to complete a payment. This is a simple and seamless operation, perhaps performed many times each day. On each of these occasions there is no requirement for the consumer to consult their own details in respect of account, its balance, or pending transaction, or a record of recent transactions, their home loan repayments, interest earns on term deposits, or anything else. These functions are rightly the role of another environment. Before mobile apps Internet banking offered all those things, while the NFC equipped plastic card functioned as the payment delivery method. A bank application functioning as a "wallet" can readily and easily provide those functions but cannot hope to offer the simplicity of device-wide access to the payment delivery method; an electronic version of the card.

The Applicants' characterising mobile apps as a wallet is misleading. They are mechanisms to provide context specific functions which do not relate to the consumer's tap-and-go contactless payment method. The "wallet" is the smartphone.

The remainder of this submission by the Applicants adds no detail of substance to the essential question of consumer advantage in permitting bank application access to the NFC hardware in an Apple iPhone. Access Apple has already stated they will not provide.

There seems to be no evidence offered that collective negotiation, if authorised, would have any effect on Apple's position (strangely it seemed slightly more logical that collective bargaining over the fees involved might have been more effective).

Denying the authorisation leaves individual banks free to negotiate on NFC hardware access. Providing access to the NFC hardware by Apple would, logically, require some engineering effort on their part to enable it. Given the scale of Apple Pay deployment globally compared to the total value of the applicant banks in the global context, it doesn't seem likely that collective, or individual negotiation is going to make the slightest difference to Apple's product development. It can only change the minimum time taken for the Applicants to consider offering the Apple Pay feature. We await them.