

Thank you for the opportunity to contribute to the decision to grant authorisation for the Australian Banking Association (ABA) member banks to explore and develop initiatives for inclusion in a banking industry standard to prevent, disrupt and respond to scams affecting individual and small business customers (Industry Standard).

All parts of the community are calling on the banking industry to do more to protect their clients from the losses both financial and emotional because of scams and fraud. The government has committed significant financial resources to the ACCC to meet this challenge and formed National Anti-Scam Centre (NASC) on the 1<sup>st</sup> of July. On the 3<sup>rd</sup> of July the NASC the centre announced it's first fusion cell to disrupt investment scams.

The ABA, a key member in the fusion cell, on the 10<sup>th</sup> of July applied for its member banks to work in a way that may breach existing competition law. The ACCC wrote to a list of interested parties on the 19<sup>th</sup> of July including all members of the fusion cell. The ACCC published feedback from Australian Payment Plus, a joint response from three consumer groups and a response from IDCARE, all part of the NASC consultations, and all expressed support of the authorisation. Interim authorisation was granted on the 3<sup>rd</sup> of August and a draft determination on the 13<sup>th</sup> of October.

There are several issues which the ACCC should consider prior to granting the final determination in relation to this application.

Scope – Stated as consumer and small business but impacts all payment participants.

The scope of the application focuses on developing and exploring initiatives for inclusion in a banking industry standard to prevent, disrupt and respond to scams affecting individual and small business customers. Whilst the focus of the standard is intended to cover the consumer market the ACCC / ABA authorisation impacts development of solutions for Government and Corporates who are also subject to fraud and scams as any standard is likely to determine procedures for all payments not only consumer payments.

Any competitive offering in scam and fraud prevention whether consumer or otherwise is directly impacted by ABA review. The ABA is empowered to review alternatives and therefore determine potential providers. This may result in providers not reviewed by the ABA, but competing with ABA reviewed solutions, being detrimentally impacted.

Impact - If authorisation is not provided.

The ABA contends that without the authorisation the development of an industry standard is likely to be delayed implying that multilateral discussions cannot take place in the absence of the authorisation.

Members of the ABA are already participants in industry discussions through numerous forums, user groups and centrally held businesses including Auspaynet, Australian Payment plus, the Australian Financial Crimes Exchange and now the fusion cells coordinated by the ACCC. Why then is it necessary to allow behaviour which would breach competition law to facilitate the further development of consumer protections.

Innovation and Competition - Benefit of diverse development over standardisation.

Members of the ABA are all working hard to protect all their customers, consumers and otherwise. Different competitive solutions have been implemented by industry participants and continue to be developed. Will the standardisation of these efforts led by the ABA result in an increase in innovation in fraud and scam prevention? This is a matter the ACCC should consider.

There is no doubt that interoperability with international efforts and coordination with international solutions will lead to a better outcome as the scams and frauds, as with many criminal activities, are perpetrated by international businesses.

Domestic standardisation sought by the ABA may stifle not only competition but innovation and therefore ultimately lead to slower and less favourable outcomes for the industry and its customers.

Conditions of the interim authorisation

The ACCC granted interim authorisation with two conditions reporting and presence of a competition lawyer. It must be presumed that competition lawyers were present in ABA coordinated discussions. The reporting requirement detailed a monthly reporting and where possible non-confidential versions to be made available on public registers. It is disappointing to note that no such reporting has been made publicly available and that these discussions remain behind closed doors at the ABA.

Finally, the NASC is currently only involving industry groups in it's consultation processes so empowering the participants in these processes to act in ways which may breach competition law is compounding this impact on competition.

As a result of these observations and impacts we are not in support of the continuation of the authorisation granted to the ABA.