



17 August 2021

Mr. Daniel McCracken-Hewson
General Manager
Merger Investigations Branch
Australian Competition & Consumer Commission

Dear Mr McCracken-Hewson,

Re: Proposed amalgamation of BPAY, eftpos and NPPA – Proposed undertaking

Thank you for your note dated 06 August 2021 in which you seek further comment on the above proposed undertaking.

Due to the time constraints in responding, we provide below our brief comments on the proposed undertaking by the new entity Australian Payments Plus Ltd (AP+).

1. The time frame over which eftpos will do all things in its control to make available LCR should be extended to a minimum of 7 years, ideally 10 years. This will ensure greater equitable treatment of both Australian merchants and consumers for a period of time more appropriate. This should be subject to the development and availability of any cheaper alternatives to LCR during this period;
2. In section 6.1 of the undertaking, AP+ agrees to provide a Compliance Report signed by a number of parties. We believe that it is prudent for the ACCC to nominate an independent law firm (reporting only to the ACCC) to complete this Compliance Report. The ACCC should pay this law firm and AP+ reimburse the ACCC. This overcomes real risks associated with appointment, funding and influence over the work of the law firm. Perhaps ACCC can also enter into a similar engagement with an independent auditing firm capable to completing an IT audit of AP+'s control environment and structure and the veracity of the transactions within it; and
3. We also believe that a sub-committee of the board of AP+ should be formed to manage the compliance aspects of the undertaking provided by AP+ and that all members be independent directors.

Thank you and please let us know if you have any queries.

Kind regards.

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