Dr Tony Richards
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

9 July 2021

Dear Dr Richards

Australian Payments Network (AusPayNet) welcomes the opportunity to respond to the *Review of Retail Payments Regulation – Consultation Paper.* As you are aware, AusPayNet is the industry association and self-regulatory body for the Australian payments industry. AusPayNet manages and develops regulations, procedures, policies and standards governing payments clearing and settlement within Australia.

This submission reflects on the rapidly evolving context in which we are operating and the implications for retail payments. It also provides specific commentary on a subset of the areas covered in the *Consultation Paper*. AusPayNet acknowledges the range of views held by its diverse member base[1] and as such has focused on issues that are considered strategically important to the payments system as a whole and in the longer term, rather than matters of more immediate commercial interest.

The evolving context

The impact of technology innovation, customer behaviour and regulation on retail payments is well documented[2]. The accelerated digitisation of all aspects of life, in the wake of the global pandemic, is also increasingly well understood. A recent global report indicates that on average companies have accelerated the digitisation of all areas of their business (covering customer interactions, supply chains and internal systems) by three to four years[3]. The same report notes that alongside this, “the share of digital or digitally enabled products in their portfolios has accelerated by seven years”.

It is the combined effects of these already well understood and emerging developments that are rapidly reshaping the retail payments landscape. The acceleration of three trends, which have near term implications for payment initiation and acceptance, and the business models that support these, are already apparent.

Blurring of online and offline

The distinction between online and offline channels has become less pronounced in recent years as consumers have taken up mobile phones and digital wallets, and as merchants have adopted payment methods that offer a similar customer experience across both channels. Recent figures suggest that mobile

1 AusPayNet members https://www.auspaynet.com.au/join-us
2 Consumer Payment Behaviour in Australia https://www.rba.gov.au/publications/bulletin/2020/mar/consumer-payment-behaviour-in-australia.html
3 McKinsey https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-covid-19-has-pushed-companies-over-the-technology-tipping-point-and-transformed-business-forever

wallets may be the preferred method of payment by the end of the calendar year[4]. As a result, some issuers of payment products no longer issue physical cards.

The events of the last year, and in particular the roll out of QR codes for mandatory venue check-in, look set to blur this distinction further. QR code check-in has effectively educated consumers and merchants on the simplicity of this technology and increased focus on its potential for payments in the Australian market (acknowledging already widespread adoption in other jurisdictions with a non-card based history). This increased interest is reflected in the fact that AusPayNet, at the request of members, is in the process of creating a framework to support QR code interoperability.

What is critical from a retail payments perspective is that QR codes are payment rail and channel agnostic; that is, they are not specifically designed to work for either cards or account-to-account rails. A payment initiated in a face-to-face environment that may previously have resulted in a card transaction could result in a consumer choosing to have the funds drawn directly from their bank account. As a result, payment initiation technology is no longer the only determining factor in payment method selection.

Consumer choice

Building on the above, a range of service providers are offering greater consumer choice and flexibility. By way of example, Curve in the U.K provides consumers with the option to "go back in time"[5] and change their choice of payment method up to ninety days after a transaction. Curve also recently announced their intention to offer its own buy-now-pay-later option.

It seems likely that the focus on greater competition and choice envisaged as part of the Consumer Data Right's extension to Action Initiation[6] will see similar services launch in the Australian market. Greater access to data is likely to see an increase in services that aim to help consumers make informed choices about managing their finances and payments, both pre and post payment.

The increased focus on consumer choice and flexibility is likely to have implications for merchant routing and surcharging in the longer term.

Closer integration of marketing and payments.

The consumer shift to online commerce, accelerated by COVID, provides further opportunities for service providers to more closely integrate brand experience with shopping and payments. Connecting businesses with consumers has always been a focus for payment service providers and is practiced well by many card issuers. What's new is that the distinction between the payment experience and brand experience is becoming less distinct. By way of example, AfterPay's Support Small[7] is a carefully targeted and branded marketing campaign that delivers benefits to consumers and merchants alike.

The closer integration of shopping experiences in social media platforms further underpins this, making it increasingly hard to separate the payment experience from a lifestyle brand experience. And in that context, it may become more challenging to separate the cost of payments acceptance from marketing and brand experience costs.

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[4] Digital Wallets https://www.commbank.com.au/articles/newsroom/2021/05/digital-wallets-contactless-soar.html

[5] Curve https://www.curve.com/features/go-back-in-time/

[6] https://treasury.gov.au/publication/inquiry-future-directions-consumer-data-right-final-report

[7] https://www.afterpay.com/en-AU/support-small-campaign

Overall, the impact of these three emerging trends is that merchant and consumer choice is likely to be informed by a more complex set of inputs than pricing. As a corollary, it is increasingly clear that regulation can no longer rely solely on economic considerations.

Response to specific proposals

1) The Board is not proposing to require any 'buy now, pay later' (BNPL) providers to remove their no surcharge rules at this time but considers that a policy case could emerge in the future and will keep this issue under review.

Building on the commentary above, AusPayNet members have noted that the growth in BNPL products and the popularity among both merchants and consumers provides a strong illustration of market competition. Merchants that choose to accept BNPL are demonstrably prioritising other features of the product over the cost of acceptance.

Specifically in terms of the no surcharge rule, it was noted that this is a rapidly evolving market and that in recent months we have seen the launch of BNPL products linked to cards, capable of supporting surcharging.

More broadly, members have commented that the volume-based measure used to quantify BNPL may require further refinement to accurately reflect its uptake. In certain retail segments, such as fashion, it accounts for a higher proportion of sales and as a result, a more granular approach to assessing uptake may be helpful when considering future thresholds. It may also be beneficial to review the total cost to the economy of BNPL products, as part of any threshold considerations.

Members also noted the importance of working alongside other regulators to ensure positive consumer outcomes with respect to the provision of credit and late payment fees.

2) The Bank would state an explicit expectation that the major banks will continue to issue DNDCs, with both schemes to be provisioned in all relevant form factors offered by the issuer (such as in mobile wallets as well as physical cards)

3) The Bank's interchange standards would be amended to set a lower cents-based interchange cap for SNDC transactions than for DNDC transactions. This would limit the possibility of schemes using interchange rates to incentivise SNDC issuance, which could accelerate the shift towards SNDCs. (Details of the proposed caps are provided in the following section.)

Taking both of these points together, AusPayNet notes that economic incentives are one mechanism for encouraging the issuance and use of DNDCs. For some issuers, particularly those in the fintech community, functionality is the determining factor that informs what type of card is issued. To enable issuers to make well informed choices, some members have suggested that it may be helpful for payment schemes to publish roadmaps, with clear timelines of planned functionality.

4) The Bank would state an expectation that the industry will follow a set of principles regarding the implementation of LCR in the device-not-present (online) environment.

With reference to our earlier comments about the reduced distinction between face-to-face and online environments, AusPayNet strongly supports the proposal that industry should follow a set of principles regarding LCR in the online environment.

AusPayNet suggests that these principles should be self-regulatory, has commenced consultation with members on this topic on that basis, and welcomes the opportunity to support the RBA on this matter.

Members have highlighted the complexity of the value chain online (which includes gateways and other payment service providers), compared with face-to-face channels, as well as the importance of ensuring that any set of principles has a clear hierarchy and that consumers are at the top of that hierarchy. Importantly, members have also highlighted the requirement to ensure that any changes to well established behaviours do not inadvertently open up new opportunities for fraud and scams.

6) Replacing the current cents-based debit (and prepaid) interchange fee cap (15 cents per transaction) with different, and lower, caps for DNDCs (10 cents) and SNDCs (6 cents)

Building on our response to proposals 2) and 3), AusPayNet members have noted that with the introduction of rail agnostic products (described above with reference to QR codes), fees from interchange may not be the dominant revenue model for cards, or for payments more broadly. As a consequence, and over time, fee caps may become less relevant, as payment choice is driven by a richer set of features than pricing.

10) Setting an explicit expectation that:

- the major banks will continue to issue DNDCs, with two card schemes to be provisioned in all form factors, including mobile wallets, offered by the issuer (where the functionality is supported by the scheme)
- all acquirers and payment facilitators will offer, and promote, LCR functionality to merchants in the device-present environment
- the industry would follow a set of principles outlined by the Bank regarding the implementation of LCR in the device-not-present environment

With respect to the provisioning of cards and consistent with earlier comments, AusPayNet notes that this concept is being reimagined by issuers of payment products and that any regulation must seek to ensure competitive neutrality.

With respect to LCR, AusPayNet supports the view expressed by the Governor of the Reserve Bank in his December 2020 Address to the Australian Payments Network[8]. "The major banks now also all offer least-cost routing, with some making it the default offering for small and medium-sized businesses…The Board is not convinced that a better outcome would have been achieved through regulation." Moreover, as highlighted above, it is increasingly clear that the cost of the transaction is only one consideration that determines merchant choice.

In terms of principles for LCR in the device-not-present environment, as per our response to proposal 4), AusPayNet welcomes further engagement with the RBA.

11) Requiring schemes to provide the Bank with access to their fee schedules and all scheme rules (including, but not limited to, rules related to fees), and to notify the Bank promptly of any changes to scheme fees and rules

12) Collecting quarterly data from card schemes on scheme fee revenue (net of rebates), as well as information on the top 20 fees by value, and annual data from larger issuers and acquirers on scheme fee payments (net of rebates)

13) Collecting merchant-level data on payment costs from large acquirers each year and using it to publish pricing information and other educational material for merchants (with acquirers expected to notify merchants at least once each year where to find the published material)

8 https://www.rba.gov.au/speeches/2020/sp-gov-2020-12-07.html

AusPayNet members broadly support greater fee transparency, noting that consistent with our broader commentary, fees are only one input to decision making. In addition to fees, members highlight the importance of data analytics, fraud tools, customer insights, loyalty and commercial flexibility as key considerations. As data availability and new technology fuel a richer set of products and services, it will become increasingly difficult to use pricing as a comparator for service offerings.

In the event that there is a requirement for consistent merchant education material, AusPayNet is willing to support the development and ongoing management of any such material.

14) Exploring with Treasury and the ACCC the possibility of extending the CDR to acquiring services provided to small businesses.

AusPayNet members support the intention of the Consumer Data Right, noting that increased competition and choice is desirable for consumers and merchants. Members have also noted CDR's ambitious agenda, particularly with respect to Action Initiation, and have commented that any extension to the CDR regime merits careful consideration and prioritisation.

18) Is the proposed approach appropriate? Does it meet the public interest?

As payment products become more closely integrated with financial products, collaboration with adjacent regulators, particularly where products have greater potential for consumer harm, will be increasingly important.

20) Are there factors that have not been properly addressed or considered, either in the general approach or the specific drafting?

Consistent with our opening comments, AusPayNet notes that the unique set of circumstances currently facing the payments industry may mean that any measures taken to address immediate concerns, may require close monitoring and review to ensure continued competitive neutrality and enhancement of customer choice. Recent developments in CDR may be of particular relevance here.

We welcome the opportunity to discuss any issues covered here in greater detail, and note our specific intention to follow up on the matter of principles for LCR in the online environment.

Yours sincerely

Andy White
CEO, AusPayNet