



23 August 2021

Sophie Mitchell
Senior Analyst, Merger Investigations Branch
Australian Competition & Consumer Commission
Level 20
175 Pitt Street
Sydney NSW 2000

Email: sophie.mitchell@accc.gov.au

Dear Ms Mitchell,

Proposed amalgamation of BPAY, eftpos and NPPA

The Australian Banking Association (**ABA**) advocates for a strong, competitive, and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

The ABA has made prior submissions^{1,2,3} to the Australian Competition and Consumer Commission (**ACCC**) which is currently assessing an application for authorisation from Industry Committee Administration Pty Ltd (**ICA**) on behalf of its members who are seeking to amalgamate ownership of BPAY Group Pty Ltd and BPAY Pty Ltd (**BPAY**), eftpos Payments Australia Limited (**eftpos**) and NPP Australia Limited (**NPPA**) under a new entity (**NewCo**).

The ABA notes the ACCC also received a number of submissions⁴ from retailer and small business associations in July and August, which could give the impression that least cost routing/merchant choice routing (**LCR/MCR**) is not currently available in the market. These submissions also expressed a view that the choices and decisions of small business owners should be overridden and LCR/MCR should be mandated by the ACCC as the default setting on all merchant payment services. The ABA does not support this view and would like to provide to the ACCC some data and observations on those particular matters.

Merchant choice

Several submissions have the view that LCR/MCR should be mandated as the default offering, the ABA would like to provide some empirical analysis on that claim.

In the field of payment services, Tyro competes with ABA's members to offer services to small and medium business customers. Tyro's 2020 annual report⁵ shows their total number of merchants is 32,176 making them one of the largest competitors in Australia. Tyro is not an ABA member, directly competes with our members, and claims to be the first provider to offer LCR/MCR in Australia.

On LCR, Tyro told Parliament⁶:

Least cost routing is offered as an opt-in option to all of our customers. The reason for this is because we advocate for merchant flexibility and believe merchants must consider whether least cost routing is right for them based on their business operations. For example, businesses on Special Offer pricing (which includes some flat fee simple pricing offers) or who currently surcharge on debit contactless transactions, may not benefit from least cost routing.

¹ [ABA submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA](#), (16 April 2021)

² [ABA Submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA](#), (18 May 2021)

³ [ABA Submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA](#), (18 June 2021)

⁴ <https://www.accc.gov.au/public-registers/mergers-registers/merger-authorisations-register/proposed-amalgamation-of-bpay-eftpos-and-nppa>

⁵ <https://investors.tyro.com/FormBuilder/Resource/module/rO0GIGrEkqPqF-fCBnw8w/file/annualreports/AR-2020.pdf>

⁶ https://www.aph.gov.au/Parliamentary_Business/Committees/House/Economics/ReviewofSmallerBanks/Documents#TyroPayments



Tyro cannot and does not guarantee to merchants that by selecting least cost routing, its business will always save money, as any amounts saved will depend on the merchant's particular card mix, transaction volume and amount, industry, and pricing plan. However, Tyro offers to provide merchants with an estimate of potential savings if they do opt-in to least cost routing and will recommend this option to businesses that will likely benefit. Merchants can then make an informed decision on whether to opt-in to least cost routing.

Like Tyro, the ABA's position remains that the merchant should always be in control of how they choose to structure their payment facilitates. Whilst retailers and small business groups have requested LCR/MCR to be mandated as the default payment option for merchants, LCR/MCR does not always result in savings. Furthermore, many merchants in Australia seek the simplicity or certainty of a fixed price bundle (like a mobile phone plan) and therefore choose not to adopt LCR/MCR for their business.

According to Tyro's 2020 Annual Report⁷ their offering of LCR/MCR is available on over 98% of their terminals on an opt-in basis⁸ – as at 30 June 2020, Tyro report almost 27% of the Tyro terminal fleet had opted into least-cost routing.

Tyro is not a member of the ABA, they are an aggressive competitor and their reported uptake of LCR/MCR is modest at 27%, which aligns with the experience of the ABA's members.

The ABA view is that the LCR/MCR savings cited in certain submissions and other advocacy material are simply not accurate and should be subjected to rigours, analysis and challenge. The ABA's view is also aligned with the view of Tyro that the decision to adopt LCR/MCR should remain in the control of the merchant - where data, customer preferences and the business characteristics determine whether LCR/MCR is advantageous for that individual business. Many small merchants also may seek simplicity and certainty of costs via fixed pricing plans which provide certainty for their business.

Customer engagement by ABA banks

Through 2019, 2020 and into 2021, each of the four majors have undertaken customer outreach and education initiatives to ensure merchants are able to make this informed choice. Comprehensive details of the 2019 and 2020 initiatives and their future plans are documented in individual responses to 2019 and 2020 Questions on Notice⁹ from the House of Representatives Standing Committee on Economics - *Review Australia's Four Major Banks and other Financial Institutions*.

These outreach initiatives continue in 2021.

ABA's members have also made a large amount of resources available to merchants so they can make the decision on what payment services they should adopt. I would encourage the ACCC to take just ten minutes review the following webpages which demonstrate the considerable work major banks have implemented to make it easier for merchants to choose.

[ANZ](#)

[Commonwealth Bank](#)

[NAB](#)

[Westpac](#)

In addition to this comprehensive material, services such as dedicated call centres and proactive outreach programs are in place. These programs, as well as the simplicity of the information in the links immediately above, are evidence of the substantial efforts the ABA's members have taken to ensure merchants are supported in deciding which payment services best suit their business.

⁷ https://investors.tyro.com/FormBuilder/_Resource/_module/rO0GIGGrEkqPqF-fCBnw8w/file/annualreports/AR-2020.pdf

⁸ https://investors.tyro.com/FormBuilder/_Resource/_module/rO0GIGGrEkqPqF-fCBnw8w/file/annualreports/AR-2020.pdf (page 21)

⁹ Questions on notice and questions in writing (& responses), Standing Committee on Economics to Review Australia's Four Major Banks and other Financial Institutions, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Economics/FourMajorBanks/Documents



Rollout of LCR/MCR in the Australian market

The ABA has engaged with its members on a number of occasions about the progress on the roll-out of LCR/MCR to customers. Through information gathered as part of that process, the ABA is confident that as of May 2021, LCR/MCR has been made available or offered to over 95 per cent of eligible small business merchants of the four major banks. Further, the individual education and customer outreach and hardware/software upgrade programmes of the four major banks continues in 2021.

To clarify the above – LCR/MCR is 100% up and running and available. The figure of “eligible customers” sits at a conservative 95% due to a number of reasons:

- **Multi Merchant facilities:** LCR/MCR for specialist facilities such as Multi Merchant facilities (multiple businesses using a single facility where not all users may wish to activate LCR/MCR) – therefore the ABA cannot count them as “eligible customers” due to the decision of the business group (head office).
- **Healthcare claim/rebate solutions:** SMEs using payment and claiming solutions for healthcare businesses were not counted as ‘eligible customers’ as LCR/MCR is not available on HICAP/health fund rebate type products/terminals.
- **Older terminals:** During 2019, 2020 and 2021, the major banks progressively withdrew from service some older terminals that do not provide LCR/MCR capabilities. If a customer who had an old terminal wanted LCR/MCR, they could request a new (LCR enabled) terminal immediately, rather than wait for the scheduled replacement. This process has enabled customers who weren't eligible before (due to having an old terminal in the shop) to immediately be counted as ‘eligible’ once they received the upgraded hardware.

The 95% cited above aligns with available data from competitors. Tyro's offering of LCR/MCR is available on over 98% of their terminals on an opt-in basis.

Regulatory environment

In a December 2020 speech¹⁰, the Reserve Bank of Australia (**RBA**) Governor noted:

“The major banks now also all offer least-cost routing, with some making it the default offering for small and medium-sized businesses. So there has been significant progress.

The Board is not convinced that a better outcome would have been achieved through regulation.”

The RBA Governor also noted: “in the online or ‘device-not-present’ environment, it is not yet clear how least-cost routing should operate and what expectations on its provision might be appropriate [...] So the idea of how least-cost routing might apply in the online world will be explored by the Bank's staff over coming months.”

That RBA work is progressing at a pace, on 20 August¹¹ the Payments System Board (**PSB**) discussed a number of issues, including the RBA Review of Retail Payments Regulation. The PSB reviewed responses to the Consultation Paper published in May, particularly relating to dual-network debit cards and least-cost routing, interchange fees and the ‘no-surcharge’ rules of buy now, pay later providers. The Board expects to publish a Conclusions Paper and final Standards within the next 2 months.

Improved RBA data collection

The ABA has seen a number of submissions and advocacy letters citing potential cost saving with LCR/MCR, the ABA would like to make the ACCC aware of some limitations in the current RBA data.

The ABA remains firmly of the view that cost savings cited in submissions or elsewhere should be treated very cautiously, unless all the data under-pinning the savings cited are made available to the ACCC or an independent third party for analysis, verification and report.

¹⁰ Reserve Bank of Australia, Innovation and Regulation in the Australian Payments System, Address to the Australian Payments Network, 7 December 2020, <https://www.rba.gov.au/speeches/2020/sp-gov-2020-12-07.html>

¹¹ <https://www.rba.gov.au/media-releases/2021/mr-21-16.html>



The RBA merchant fees data report (*RBA Table C3: Average Merchant Fees for Debit, Credit and Charge Cards*) reports eftpos as generally being the least expensive option. As an example, in the December 2019 quarter, the RBA said eftpos costs merchants an average of 0.3 per cent of the transaction value, compared with an average merchant fee of 0.5 per cent for Visa and Mastercard debit card transactions. However, the current merchant fee data the RBA receives and uses in this report from banks is not comparing 'apples with apples'. This is because the current RBA data collection compares fees charged for routing face-to-face domestic debit transactions via the domestic eftpos network with international network fees, which are reported as a combination of domestic debit transactions, international card holders' domestic debit transactions and e-commerce transactions.

To address this data quality problem, in 2020 the RBA, ABA and AusPayNet facilitated an industry agreement on a revised and improved data collection for *RBA Table C3: Average Merchant Fees for Debit, Credit and Charge Cards*. The first collection will be published by the RBA later in 2021.

New data to be collected:

- merchant Service Fee data to be reported commencing July 2021 (capturing new data for April, May, and June 2021); and
- card Acquiring data to be reported commencing May 2021 (capturing new data for April 2021).

New (retrospective) data to be collected:

- merchant Service Fee data to be reported July 2021 (capturing data April 2020 – March 2021); and
- card Acquiring data to be reported May 2021 (capturing data for April 2020 – March 2021).

This new RBA data collection will provide more accurate data to inform the RBA and other stakeholders on the acceptance costs of different payment schemes.

Conclusion

The decision to adopt LCR/MCR should always be in the control of the merchant where data, customer preferences and the business characteristics determine whether LCR/MCR is advantageous for that individual business. Many small merchants seek simplicity and certainty of costs and prefer fixed pricing plan. ABA members (and apparently our competitors too) are committed to supporting their small business customers make the right choice for their business.

Based on the views of the RBA, data from ABA members and independent market research, LCR/MCR is already currently widely available and merchant's knowledge and understanding of the LCR/MCR product continues to rise¹² and remains a policy focus of the Reserve Bank of Australia. Given this, the availability and continued LCR/MCR rollout should not be impacted in any way by the proposed amalgamation.

If you have any queries in relation to this matter, please do contact me at

Yours sincerely,

Aidan O'Shaughnessy
Executive Director, Policy

¹² See previous ABA submissions - [ABA Submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA, \(18 May 2021\)](#)
[ABA Submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA, \(18 June 2021\)](#)