

23 August 2021

To

Sophie Mitchell
Assistant Director (a/g) | Competition Exemptions
Branch
Australian Competition & Consumer Commission
Level 27, 135 King Street, Sydney NSW 2000
sophie.mitchell@acc.gov.au

Dear Sophie

Payments Amalgamation: Application for Authorisation MA100020-1: Conduct for which Authorisation is sought – section 5 of the Application

The Applicants respectfully ask the Commission to read the contents of this letter in substitution for sub-sections 5.1, 5.2 and 5.3 of the Application for Authorisation filed by Industry Committee with the Commission on 18 March 2021 and accepted by the Commission on 22 March 2021.

5.1 Parties to the application

ICA is the administrator of an unincorporated association known as Industry Committee.

Industry Committee is applying for authorisation under sub-section 88(1) of the Act on behalf of its members who are shareholders of BPAY Holdco and/or members of eftpos and/or shareholders of NPPA,¹ to allow them to become shareholders of Australian Payments Plus Ltd (ACN 649 744 203) (**AP+**).

AP+ is a new company, incorporated solely for the purposes of the Conduct for which authorisation is sought (as described below in section 5.3).

The following persons are members of Industry Committee and shareholders of BPAY Holdco and/or members of eftpos and/or shareholders of NPPA: ANZ, ASL, Bendigo and Adelaide Bank Limited, CBA, Coles Group Limited, Cuscal Limited, First Data Network Australia Limited trading as Fiserv, HSBC Bank Australia Limited, Macquarie Bank Limited, NAB, Tyro Payments Limited, WBC and Woolworths Group Limited.

¹ The RBA will not be acquiring shares in AP+ and will not continue to hold shares in NPPA. Consequently, the RBA is not an Applicant. It is a person named or referred to in this Application for the purposes of sub-section 88(2) of the Act.

5.2 Persons named and referred to in this Application

This sub-section defines the persons named and referred to in this Application for the purposes of sub-section 88(2) of the Act.

The persons named and referred to in this Application who are not members of Industry Committee are eftpos, eftpos Foundational Shareholders,² BPAY Holdco, NPPA and persons who are members of eftpos and/or shareholders of NPPA.

Those persons include Citigroup Pty Limited, ING Bank (Australia) Limited, Indue Limited, EFTEX Pty Limited, Suncorp Metway Ltd, Adyen Australia Pty Limited, Bank of Queensland Limited, Windcave Pty Ltd and Wise Australia Pty Ltd.

Further, the RBA, AP+ and the individuals directly involved in the administration and oversight of Industry Committee, including the Chairperson and the Secretary of Industry Committee, are persons named and referred to in this Application.

In accordance with sub-section 88(2) of the Act, to the extent that any of the persons defined in this sub-section as persons named and referred to in this Application might be involved in the Conduct for which authorisation is sought, they would take the benefit of the authorisation should authorisation be granted.

5.3 Conduct for which Authorisation is sought – acquisition of shares

Industry Committee is applying for authorisation to amalgamate the ownership of BPAY HoldCo,³ eftpos and NPPA by way of two related acquisitions of shares, namely:

- a) the acquisition of shares by the shareholders of BPAY HoldCo, shareholders of eftpos (once eftpos converts from a company limited by guarantee to a company limited by shares) and NPPA in AP+; and
- b) the acquisition of shares by AP+ in each of BPAY HoldCo, eftpos and NPPA.

For the avoidance of doubt, Industry Committee is also applying for authorisation of any conduct by its members and the persons named and referred to in this Application that directly or indirectly provide for the acquisition of shares outlined in (a) or (b) above.

² As defined by article 19.1 of AP+'s Constitution as follows: “**eftpos Scheme Rules:** Each Shareholder who was an “eftpos member” immediately prior to the date on which the Company first issued Preference Shares (other than the Initial Preference Share) (an eftpos Foundation Shareholder) must comply with, and continues to be bound by, the eftpos Scheme Rules applicable to it (as amended from time to time). For the purposes of this article 19 an “eftpos member” means a “Member” pursuant to the eftpos Constitution as it existed prior to the date on which the Company first issued Preference Shares (other than the Initial Preference Share).”

³ Industry Committee initially applied for authorisation to amalgamate ownership of BPAY Group Pty Ltd, BPAY Pty Ltd, EPAL and NPPA. However, ICA's 18 June 2021 letter to the ACCC confirms that BPAY Group Pty Ltd, BPAY Pty Ltd and BPAY Group Holding Pty Ltd (BPAY HoldCo) will be part of the amalgamation. BPAY Group Pty Ltd and BPAY Pty Ltd are wholly owned subsidiaries of BPAY HoldCo. Syphnt, which is BPAY HoldCo's joint venture project with a third party, will not be included in the amalgamation.

Please let me know if you wish to discuss any aspect of this letter.

Yours sincerely



Sharon Henrick | Partner
Competition Law and Regulatory Group

T [REDACTED] | M [REDACTED]
[REDACTED]