



18 June 2021

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Australian Competition & Consumer Commission  
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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 welcomes the opportunity to provide further information as requested in the ACCC's statement of preliminary views and issues (published 4 June 2021) regarding the proposed amalgamation of BPAY, eftpos and NPPA.

The ABA retains its position outlined in our April 2021<sup>1</sup> and May 2021<sup>2</sup> submissions that the proposed amalgamation will not substantially lessen competition between BPAY, eftpos and NPPA. The proposed amalgamation will enhance the ability of NewCo to compete with international card schemes and payments services offered by large technology companies.

The ACCC's statement of preliminary views and issues cites two particular concerns (verbatim):

1. *The ACCC is assessing concerns raised by interested parties that the Least Cost Routing initiative may be neglected or abandoned under NewCo, and that this would reduce competition. (Key Point Page 3).*
2. *Paragraph 2.54. - On the other hand, Benchmark Analytics considers that the proposed amalgamation is not necessary because a body such as the Australian Payments Council could facilitate investment coordination.*

The ABA takes this opportunity to provide further information to the ACCC on these two questions.

## Least Cost/Merchant Choice Routing (LCR/MCR)

In our May 2021 submission regarding the proposed amalgamation, the ABA provided empirical evidence on the continued rollout of Least Cost/Merchant Choice Routing (**LCR/MCR**), including references to the views of the Reserve Bank of Australia stating<sup>3</sup> *"there has been significant progress"* in regards to the availability of LCR/MCR.

<sup>1</sup> ABA submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA 16 April 2021 <https://www.accc.gov.au/system/files/publicregisters/documents/Submission%20by%20Australian%20Banking%20Association%20%28ABA%29%20-%2016.04.21%20-%20PR%20-%20MA1000020.pdf>

<sup>2</sup> ABA submission to ACCC Re: Proposed amalgamation of BPAY, eftpos and NPPA 18 May 2021 <https://www.accc.gov.au/system/files/publicregisters/documents/Submission%20by%20Australian%20Banking%20Association%20%28ABA%29%20-%2018.05.21%20-%20PR%20-%20MA1000020.pdf>

<sup>3</sup> 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>



In our May submission the ABA also committed to providing the ACCC with more information from independent research house RFI Group.<sup>4</sup> Every six months, the RFI Group conducts a survey of approximately 1,000 card-accepting merchants with annual turnover of at least \$100,000. The survey contains a range of LCR/MCR questions including:

- Understanding of LCR/MCR.
- Intention to contact merchant services provider regarding LCR/MCR.
- Merchant action on LCR/MCR.

The April 2021 RFI Merchant Survey found:

- 60% of business owners indicated they were aware of LCR/MCR, up from 36% in April 2019.
- 86% of all business owners surveyed stated they have at least some understanding of how it impacts their business after having LCR explained to them. This proportion has been increasing over time, up from 71% in October 2019.

The key point to highlight from the April 2021 RFI survey results is that merchant awareness and understanding of LCR/MCR is continuing to increase at a pace. When the April 2021 survey results are combined with the fact that:

- LCR/MCR has been made available or offered to over 95 per cent of eligible small business merchants of the four major banks.
- Individual education, customer outreach and hardware/software upgrade programmes of the four major banks continues during 2021.
- Merchant awareness is consistently rising and continues to do so.

The firm ABA view remains that the rollout of LCR/MCR is neither being neglected or abandoned, or likely to be so - given the significant progress made to date. Further data points are expected from this survey and once available from RFI the ABA is happy to provide these to the ACCC.

## **Reserve Bank of Australia – Review of Retail Payments Regulation – May 2021 consultation**

In May 2021, the Reserve Bank of Australia (**RBA**) released a consultation paper as part of their ongoing review of Retail Payments Regulation.<sup>5</sup> The ABA notes that this RBA consultation paper contains a further acknowledgment that considerable progress has been made<sup>6</sup> and that no further explicit regulatory requirements regarding the provision of LCR/MCR is required at this stage.

The RBA continues to focus on the rollout of LCR/MCR, proposing:

- Major Banks would have the explicit expectation to continue to issue Dual Network Debit Cards (DNDC).
- All card acquirers and payment facilitators are expected to offer and promote LCR/MCR functionality to merchants in the device present environment.
- Schemes would be explicitly prohibited from engaging in 'tying conduct' (making the sale of one product conditional upon the purchase of another) involving their debit and credit card products

Given the above April 2021 Merchant Survey data, the previous ABA evidence provided to the ACCC in the May submission as well as the continued RBA focus on the remaining parts of the rollout of LCR/MCR, it is clear that LCR/MCR remains a policy priority for the RBA.

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<sup>4</sup> <https://www.rfigroup.com>

<sup>5</sup> Reserve Bank of Australia's Review of Retail Payments Regulation Consultation Paper May 2021 <https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/consultation-paper-202105/index.html>

<sup>6</sup> Ibid, page 2



## Setting up the Australian Payments System for future success.

Paragraph 2.54 of the ACCC's statement of preliminary views and issues notes a [submission<sup>7</sup>](#) by Benchmark Analytics, which provides consultancy services for eftpos. This submission suggests that the Australian Payments Council (**APC**) could facilitate investment coordination for the entire Australian Payment eco-system, thereby negating the need for the proposed amalgamation.

The ABA strongly disagrees that such a solution is practical, realistic, or effective as the Australian Payments Council is a forum for the RBA's Payments System Board to consult with industry.

The proposal is flawed for the following reasons:

1. The Australian Payments Council provides a forum for the Payments System Board to consult with industry and is not constituted in a way to represent all relevant payment schemes in Australia.
2. Whilst the Australian Payments Council is the strategic coordination body for the payments industry, they are unable to make enforceable decisions for members or non-members.
3. Each and every collaborative action by the Australian Payments Council across the Australian Payments eco-system would require authorisation from the ACCC; therefore a board constituted with some competitors in the payments eco-system making investment decisions to bind all competitors in the Australian payments eco-system is not a good competition/policy outcome.

To be clear, the ABA supports and is an advocate for the current role<sup>8</sup> that the Australian Payments Council plays as a trusted and knowledgeable advisor to the RBA Payment Systems Board.

### Conclusion

A stable and resilient payments system is critical to the Australian economy.

The ABA supports the proposed amalgamation of BPAY, eftpos and NPPA, as Australia requires an innovative and adaptive system where participants are incentivised to invest in existing and new payment products and infrastructure. A successful Australian payments eco-system requires economies of scale to allow for investment in growth areas such as online and to level the playing field with international card schemes and technology companies, all of which can be achieved by the proposed amalgamation of BPAY, eftpos and NPPA.

International entities have a large market share in the Australian payments industry and are backed by significant capital. Any domestic payments entity needs the ability to make timely investments in innovative products and technology to remain competitive against the international entities. The proposed amalgamation provides both the capacity to achieve this and sustains a healthy competitive tension. The proposed amalgamation would also create a governance structure that gives greater voice to non-bank entities and end-users.

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

[Redacted contact information]

Yours sincerely,

Lauren Worldon  
Business Engagement and Policy Director

<sup>7</sup> Benchmark Analytics 14 May 2021 <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Benchmark%20Analytics%20-%2014.05.21%20-%20PR%20-%20MA1000020.pdf>

<sup>8</sup>Australian Payments Council Memorandum of Understanding <https://australianpaymentscouncil.com.au/wp-content/uploads/2018/01/RBA-MoU-2015-08-21.pdf>