



Determination

Application for minor variation of authorisation AA1000441
lodged by
Australian Banking Association
in respect of certain conditions of its Banking Code relating to basic bank
accounts

Authorisation number: AA1000441

Date 1 February 2024

Commissioners: Keogh
Carver

Summary

The ACCC has decided to vary authorisation AA1000441 granted to the Australian Banking Association, its member retail banks and future member retail banks which authorised certain amendments to the 2019 Banking Code relating to informal overdrafts, dishonour fees, default interest charged on loans secured by agricultural land and certain minimum requirements relating to basic bank accounts (the Authorised Conduct).

The variation is to authorise changes to certain minimum requirements of basic bank accounts offered to low-income customers under the Banking Code. The Banking Code will be amended to provide that basic bank accounts will have access to the customer's choice of a widely accepted debit payment method offered on their basic bank account, including a debit card, rather than only a widely accepted debit card.

The authorisation will remain in effect until 12 December 2024.

1. The application for minor variation

- 1.1. On 29 September 2023, the Australian Banking Association (the **Applicant**) applied for a minor variation to authorisation AA1000441 granted by the Australian Competition and Consumer Commission (the **ACCC**). That application was updated on 8 December 2023.
- 1.2. The ACCC granted authorisation AA1000441 with conditions on 21 November 2019 until 12 December 2024. The authorisation enables the Applicant, its member retail banks and future member retail banks to implement certain amendments to the 2019 Banking Code (the **Authorised Conduct**) relating to informal overdrafts, dishonour fees, default interest charged on loans secured by agricultural land and certain minimum requirements relating to basic bank accounts.¹
- 1.3. The changes to the Banking Code were in response to recommendations of the Royal Commission into Misconduct in Banking, Superannuation and Financial Services Industry (Royal Commission), and in addition changes which codified the concept of a basic bank account and set minimum eligibility criteria for basic bank accounts, low fee accounts and no fee accounts.
- 1.4. The Applicant is seeking a variation to the authorisation to amend paragraph 44BE of the Banking Code to provide for potential future developments in relation to payments methods technology and basic bank accounts. The proposed changes to paragraph 44BE are presented below with strikethrough text for deletion and underlined text for new wording:

Basic accounts have, at a minimum:

e. Access to your choice of a widely accepted debit card (such as eftpos) or a scheme debit card (such as Visa Debit or Mastercard Debit) payment method (including a debit card) offered by us on your basic bank account at no extra cost.

(the **Proposed Conduct Change**).

- 1.5. This application for a minor variation was made under subsection 91A of the *Competition and Consumer Act 2010* (Cth) (the **Act**).

¹ See [Final Determination AA1000441](#) further details about the Authorised Conduct.

- 1.6. Under the Proposed Conduct Change customers who are eligible for a basic bank account will continue to be offered access to a debit card at no extra cost and may, in addition, be offered other widely accepted debit payment methods.²
- 1.7. The Banking Code is independently reviewed on a periodic basis in consultation with consumer representatives, small business organisations and other stakeholders to ensure it is operating as effectively as possible. Further to the Independent Review of the Banking Code of Practice 2021 Final Report³ (the **Independent Review**), the ABA proposes to make certain updates to the Banking Code consistent with the Review's findings and recommendations.
- 1.8. The Applicant submits that following the Reserve Bank of Australia's *Review of Retail Payments Regulation Conclusions Paper*⁴, the RBA stated its expectation that all banks with more than 1% of the debit market by value would issue dual network debit cards (ie cards supporting eftpos and Mastercard or Visa) - as opposed to single-network debit cards (ie cards supporting only one of eftpos or Mastercard or Visa).
- 1.9. The RBA policy supports least cost routing, which aims to enhance competition in the supply of debit card acceptance services and reduce payment costs for businesses by allowing them to choose the lowest cost network to process their transactions.
- 1.10. The Applicant submits that the proposed minor variation and removal of reference to 'debit card [...] or scheme debit card' is intended to support the issuance of dual network debit cards, consistent with the RBA's policy.
- 1.11. The Applicant submits that the card-based payment schemes landscape has evolved rapidly and will continue to do so, with customer preferences potentially shifting from a choice of debit cards to a choice of payment methods (eg mobile wallets).⁵ The Applicant submits the proposed minor variation provides more flexibility in relation to alternative and emerging payment methods and facilitates increased customer choice.
- 1.12. The Applicant also submits the proposed minor variation aligns with recommendation 22 of the Independent Review to amend the Banking Code to be technology neutral, where possible, to ensure that the terminology of the Banking Code is up to date.

2. Background – the Applicants

- 2.1. The Applicant is an association of 20 banks in Australia. The Applicant provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services.

² See page 8 of Applicants submission 8 December 2023 [Applicant's submission 8 December 2023](#)

³ Australian Banking Association, *Independent Review of the Banking Code of Practice 2021*, November 2021. Available at: <https://www.ausbanking.org.au/wp-content/uploads/2021/12/Final-Report-Banking-Code-of-Practice-Review-2021.pdf>.

⁴ Reserve Bank of Australia, *Review of Retail Payments Regulation Conclusions Paper*, October 2021. Available at: <https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/conclusions-paper-202110/>

⁵ See ABA Bank on It: Customer Trends 2023 Report, p 30. Available here: <https://www.ausbanking.org.au/wp-content/uploads/2023106/Bank-On-It-%E2%80%93-Customer-Trends-2023-1.pdf>.

3. Consultation

- 3.1. For the purpose of consultation, the ACCC made an initial assessment that the application is capable of being a 'minor' variation consistent with the definition of a minor variation in the Act.⁶
- 3.2. The ACCC then invited submissions from a range of potentially interested parties including major competitors, relevant industry associations, consumer groups and state and federal government stakeholders.
- 3.3. One submission was received from Australian Payments Plus, who brings together Australia's 3 domestic payment rails, BPAY, eftpos and the New Payments Platform into one integrated entity and builds and operates Australia's national payment and data infrastructure.
- 3.4. Australian Payments Plus, as owner and operator of the Australian debit card scheme (*eftpos*), considers that the proposed amendment better reflects the multiple ways a consumer can choose to make a debit payment beyond the traditional debit card and supports the variation.

4. ACCC assessment

- 4.1. Under section 91A, the ACCC may grant an application for minor variation of an authorisation if it is satisfied that:
 - the proposed variation is minor, and
 - the variation would not be likely to reduce the extent to which the benefit to the public from the authorisation outweighs any anti-competitive detriment caused by the authorisation (the minor variation test).

The proposed variation is minor

- 4.2. The ACCC is satisfied that the proposed variation is minor. The ACCC considers that the proposed variation will not involve a material change in the effect of the authorisations that were originally granted.
- 4.3. The ACCC considers that the change to the minimum requirements of a basic bank account does not change the nature of the Authorised Conduct in a meaningful way as customers who are eligible for a basic bank account will continue to be offered access to a debit card at no extra cost and may, in addition, be offered other widely accepted debit payment methods.

No reduction in the net public benefit of the arrangements

- 4.4. In its 2019 determination, the ACCC concluded that by granting authorisation with conditions the arrangements were likely to result in a net public benefit. In particular, the ACCC considered that the conditions imposed would ensure that public benefits associated with the Applicant implementing Royal Commission recommendations and its other Banking Code changes are likely to result. The ACCC considered there was a likely public benefit from improving the accessibility and affordability of banking services for low-income customers and providing relief from default interest for farmers in times of drought and other natural disasters.

⁶ Section 87ZP(1) of the Act

- 4.5. To the extent that the proposed minor variation to allow the Proposed Conduct Change has any impact on public benefits, the ACCC considers that it is likely to increase them. In particular, the ACCC considers that retaining access to a debit card and broadening the range of other widely accepted debit payment methods at the consumer's election would improve the accessibility of banking services for low-income customers.
- 4.6. In its 2019 determination, the ACCC considered that the proposed Conduct was likely to result in public detriment to the community insofar as the Proposed Conduct did not effectively address harms identified by the Royal Commission with the result that low-income customers were not provided with banking services which were accessible, affordable and appropriate to their needs. To reduce the likelihood of those detriments occurring and to increase the likelihood of lasting benefits the ACCC granted authorisation with conditions.
- 4.7. In its 2019 determination, the ACCC considered the minimum basic bank account requirements were likely to have limited impact on competition in relation to basic accounts including because:
 - there was limited competition between banks in relation to basic accounts offered to low-income customers, and banks appeared to be motivated by reasons of social responsibility rather than profit in offering and improving these products; and
 - the proposed standards did not set a lower benchmark for features across all basic bank accounts on these accounts compared to the features already offered on basic bank accounts individually.
- 4.8. The ACCC considers that the Proposed Conduct Change will not impact any potential public detriments and are likely to have limited impact on competition in relation to basic accounts. On this basis, the ACCC considers that the proposed minor variation is unlikely to result in any increase in likely public detriments.
- 4.9. For the reasons outlined, the ACCC considers that the proposed minor variation will not result in any reduction in the net public benefits of the Authorised Conduct.

5. Determination

- 5.1. The ACCC is satisfied that the variation is minor as defined by section 87ZP of the Act.
- 5.2. The ACCC is also satisfied that the public benefit test under section 91A(4)(b) of the Act is met. That is, the variation would not result, or would be likely not to result, in a reduction in the extent to which the benefit to the public of the authorisation AA1000441 outweighs any detriment to the public caused by the authorisation.
- 5.3. Pursuant to section 91A(3) of the Act, the ACCC makes this determination varying authorisation AA1000441 to enable the Australian Banking Association and its current member retail banks and future member retail banks to vary paragraph 44BE of the Banking Code as authorised by the ACCC on 21 November 2019 with the following amendment:

Basic accounts have, at a minimum:

 - e. Access to your choice of a widely accepted debit payment method (including a debit card) offered by us on your basic bank account at no extra cost.
- 5.4. Authorisation AA1000441, as varied, will remain in place until 12 December 2024.

5.5. This determination is made on 1 February 2024. If no application for a review of the determination is made with the Australian Competition Tribunal, the determination will come into force on 23 February 2024.