



Ms Michele Bullock
Head of Payments Policy
Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
Sydney NSW 2001

28 October 2009

Dear Ms. Bullock,

Proposed Changes to the EFTPOS Interchange Fee Standard

I refer to the recent announcement by the Payments System Board (PSB) regarding changes to the regulation of interchange fees in the EFTPOS system and requesting submissions. Visa welcomes the opportunity to comment on the proposal.

As noted in its previous submissions, Visa believes that free and fair competition – rather than government regulation – is the best way to promote an efficient and innovative payments industry that provides value to all stakeholders. It is within this sort of framework that all debit networks could and should compete, with each network having the incentives to invest and innovate to provide increasingly valuable payment products to consumers and merchants.

The PSB's current proposal indeed highlights the advantages of competition. The PSB has proposed regulating EFTPOS to the same interchange as other debit networks, but this proposal fails to recognise the fundamental differences between the relative value each network provides – differences that would be reflected by different interchange and merchant pricing in a functioning competitive industry. Attempting to regulate the interchange of these very different systems to a uniform result may, in fact, lead to consequences unintended by the PSB.

If the PSB proceeds with adjusting regulation, however, it should ensure that that no network has an unfair competitive advantage. In particular, the PSB has not clarified whether EFTPOS would be subject to similar restrictions on surcharging, and it continues to allow MasterCard debit to operate solely pursuant to an undertaking, as opposed to regulation.

The PSB has stated that it is undertaking this proposal as an interim step *'until such time that the Board decides to remove regulation or move to a regime of lower, regulated interchange fees'*¹. Visa continues to encourage the PSB to "step back" from regulation. At a minimum, however, any regulation should be applied with an even hand.

¹ Payments System Board, *'Payments Systems Issues: Press Release'* (22 Sept 2009).

The Competitive Landscape for Debit

Visa – like other payment providers – must provide a valuable proposition both to issuers, so they will choose to issue cards and create incentives for cardholders to use them, and to acquirers, so they can encourage merchants to accept them. It is within this framework that emerging and established payment companies compete, each making a different decision about how to best balance these demands consistent with its product features and business model. Thus, in competitive payments industries, a number of alternative payment options have emerged and have thrived to compete with more established debit networks like Visa and MasterCard. In the United States, for example, there are a number of successful PIN debit networks such as STAR and NYCE. In addition, firms such as PayPal and Google are offering new payment services for electronic commerce.

Importantly, competition among debit providers has led to the emergence of a number of different business models – companies that provide less value (but at a lower price) and companies that provide more value (but at a higher price). Here, the PSB's proposal suggests regulating EFTPOS to the same interchange level as other debit networks. The higher cost and overall higher level of acceptance associated with a Visa transaction, however, also represents the superior *value* this product provides. As the PSB itself has recognised, EFTPOS and the other debit networks (Visa and MasterCard), while sharing basic attributes, have some fundamental functionality differences.²

The shortcomings in the EFTPOS product recognised by the PSB – as well as other shortcomings such as lack of international functionality and lack of cardholder protections funded in part by issuers' interchange revenue like chargeback rights and zero liability – are addressed by the Visa system.³ Visa Debit has been an enormously successful product, rapidly growing in response to consumer demand driven by its convenience and functionality.

Consumer benefits include things such as access to cash at 1.5 million ATMs and 29 million merchant outlets worldwide and the ability to make purchases through card-not-present channels (e.g., Internet, telephone, or mail order). Cardholders also enjoy an array of security protections, such as Visa's *Zero Liability* policy (which protects cardholders from unauthorised transactions), *Verified by Visa* (which provides enhanced online security) and chargeback rights (which provide protection if goods or services that have been purchased are not delivered as promised). Visa Debit likewise provides many benefits to merchants, including the ability to open up new sales channels through the Internet, *etc.*, as well as an increased likelihood that a customer will make a purchase in light of the benefits they receive.

The proposal offered by the PSB does not, however, recognise these differences. Ultimately, it is only the dynamics of a competitive industry that can do this – dynamics that could in fact lead to EFTPOS innovating and thriving as domestic debit networks have done in other parts of the world.

² See Reserve Bank of Australia Payments System Board, *Reform of Australia's Payment System: Preliminary Conclusions of the 2007/2008 Review*, 32.

³ *Id.*

Potential Unintended Consequences

Failing to recognise the differences between the EFTPOS network and Visa could also lead to unintended consequences. As the PSB is aware, Visa Debit activity is generally made up of *card present* electronic transactions and various forms of *card not present* transactions. EFTPOS, in contrast, is presently limited to *card present* transactions. Given that the setting of Visa Debit interchange requires weighting of these *card not present* transactions (and recognising that *card not present* transactions attract higher costs than electronic POS transactions),⁴ the EFTPOS system would be able to set average interchange fees up to the 12c benchmark, whilst Visa Debit would be required to set the interchange fee for comparable transactions to a lower value. Accordingly, there would be a risk of harming competition and consumer welfare by applying identical interchange yield requirements to these different products without full equity in the components of that yield.

Ensuring a Level Playing Field

The PSB has acknowledged the differences between the EFTPOS and Visa systems. As noted above this therefore supports a deeper analysis of the components of the yield before applying identical interchange standards to these networks.

On the other hand, however, the goals of the PSB in relation to surcharging support treating all networks similarly in this regard. As discussed below, the PSB should ensure that all networks' operating rules are subject to the same requirements.

A. MasterCard Debit

Currently, Visa operates as a "designated" debit network that adheres to the debit Standards issued by the PSB. MasterCard, in contrast, provided the PSB with a written undertaking to voluntarily comply with the Visa Debit interchange, honour-all-cards and surcharging Standards.

Visa appreciates that these two frameworks may, from a practical perspective, have the same ultimate effect. That said, we believe it has wrongly led to the conclusion by external parties that the PSB has a greater focus on Visa than on one of our primary competitors.

B. Surcharging and EFTPOS

In the current regulatory regime, Visa may not prohibit merchants from surcharging consumers. As Visa has previously noted, we believe that surcharging is harmful to consumers, restricts the growth of efficient forms of payment, and is often used by merchants to profit from card transactions, rather than as a steering mechanism.

Although Visa does not support surcharging, any modification to the regulatory regime for EFTPOS must be accompanied by the same restrictions that apply to other networks. If surcharging is intended to promote steering behavior, then there is

⁴ Card not present transactions generally have a higher cost than card present transactions given the increased levels of risk and fraud associated with these transactions, as well as the high level of value they provide to merchants and cardholders transacting remotely.

no reason for steering to be permitted only *against* the international networks, as opposed to *in favour* of those networks if a merchant decides that is in its best interest.

C. Capping of Surcharges

Although not directly raised by the current proposal, Visa would like to take this opportunity to note that it remains concerned that merchants have used surcharging as a profit centre, charging consumers *more* than their cost of acceptance. Visa believes that at a minimum networks should be permitted to prohibit this practice and require merchants to surcharge only up to their cost of acceptance. Indeed this result should *promote* the PSB goal of encouraging steering among payment providers. Visa is aware of no legitimate end that is served by permitting merchant surcharging to exceed the cost of acceptance.

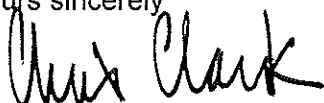
D. Cash-Out Transactions

Finally, Visa seeks clarification on whether cash-out would remain exempt from interchange Standards for EFTPOS cash-out transactions. The PSB has previously stated that, as a result of interchange fees on ATMs being set to zero, interchange fees for 'cash-out' on scheme debit '*would not be exempted from regulation*' and that it would '*not see a strong case for maintaining this exemption for EFTPOS cash-out transactions.*'⁵ Regardless of the PSB's final position, Visa would request that all networks' cash-out transactions be regulated similarly to those of the EFTPOS system.

Conclusion

Visa believes that competition in the Australian payments system would foster innovation and investment in all payments networks to the ultimate benefit of cardholders and merchants. That is why it continues to endorse the PSB "stepping back" from regulation. Visa has previously expressed its willingness to enter an appropriate undertaking to facilitate this result. If the PSB proceeds, however, Visa believes all networks' rules should at a minimum be subject to the same regulatory framework.

Yours sincerely



Chris Clark
General Manager
Visa, Australia, New Zealand and South Pacific

⁵ Reserve Bank of Australia, *Reforms of Australia's Payments System – Conclusions of the 2007/08 Review* (Sept 2008), 22.