



Cards

30 June 2008

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Dear Michele

Re : Preliminary Conclusions of the 2007-8 Review

On behalf of American Express, I would like to make some observations on the Reserve Bank's Preliminary Conclusions of April 2008. We would also refer you to the paper presented by our consultants ACIL Tasman.

Our reaction to the Preliminary Conclusions has been mixed. We have provided extensive comments in our previous submissions and we stand by those comments. We are especially disappointed with the conclusions on merchant surcharging, but somewhat heartened by the concept of self-regulation presented in the Reserve Bank's Option 3. We have long advocated the restoration of competitive forces and the removal of price regulation as the right way forward.

Merchant Pricing

In the Preliminary Conclusions, the Reserve Bank has declined either to impose, or allow acquirers to impose, any ceiling on the amount of surcharge a merchant may charge.

It is disheartening that the Reserve Bank remains impervious to concerns expressed by industry players and their consultants on the subject of merchant surcharging. A prominent feature of the consumer payments environment remains the asymmetry of bargaining power between merchants – especially large merchants - and acquirers, plus the even greater asymmetry between merchants and cardholders.

American Express remains of the view that excessive or discriminatory surcharging or other acceptance practices is fundamentally damaging to its brand, and an acquirer should not be required to maintain business relations with a merchant which is devaluing its scheme brand in this way . In effect this would amount to a choice by the acquirer to diminish its own market share, which should not be objectionable on policy grounds.

Much of the value of card scheme brands is associated with the certainty and promise of assured acceptance. This has been a central and core tenet of the American Express Brand promise and has become implicit in the brand after years of advertising investment to convey this message. The Australian merchant pricing regime in its current form poisons this promise. In Australia, the brand no longer represents a guaranteed promise of welcome acceptance by merchants who advertise acceptance of the card. In effect it has been reduced to a mere invitation to the customer to engage in an edgy negotiation about what forms of payment may be used and at what price.



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Consumers fundamentally remain under-protected by the merchant pricing regime and we still maintain that more serious consideration should be given to implementing regulations to regulate the display of prices by merchants who choose to surcharge credit cards or any other payment methods despite their point of sale and other advertising.

It seems that acquirers and consumers remain effectively disenfranchised from this debate, not only losers in the first round of reforms but denied a voice in the review as well.

Option 3 – remove explicit interchange regulation

Conversely, American Express welcomes the imaginative approach of the Reserve Bank in articulating the conditions on which it might be prepared to step back from directly regulating the interchange fees of the dominant card schemes. I would also draw your attention to the observations of ACIL Tasman on this matter in their submission, which we trust will be useful.

In particular, Dr Lowe's recent suggestion that the dominant card schemes explore the possibility of holding interchange fees at their current regulated level through some sort of voluntary mechanism seems to offer an eminently pragmatic and sensible way out of the current impasse between the payments industry and its regulator. If realised, this would also help break the spiral of industry attempting to circumvent regulation leading in turn to further regulatory interventions, which the Reserve Bank referenced in the Preliminary Conclusions.

We consider that the Reserve Bank's Option3 presents the payments industry with an unprecedented and unlikely-to-be-repeated opportunity to advance the cause of self-regulation by volunteering to provide the community with an appropriate level of comfort about future levels of interchange fees. This would of course need to be realised through mechanisms which carefully protect the reasonable interests of all constituents and do not disadvantage smaller players or consumers.

Our hope is that Option 3 resonates sufficiently with the dominant schemes to prompt them to take the hand that is offered.

Thank you for the opportunity to comment.

Yours sincerely,

Pierric Beckert
Managing Director, Australia & New Zealand