



AUSTRALIAN HOTELS ASSOCIATION

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Payments Policy
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001
By email: pysubmissions@rba.gov.au

Credit card surcharging standards – Submission by Australian Hotels Association (AHA)

The Australian Hotels Association (AHA) is a registered industrial organisation representing over 5,000 hotel and hospitality businesses across Australia. For AHA members, credit card and electronic payments generally continue to increase proportionally within the \$12 billion in sales made in hotels each year.¹ The AHA welcomes the opportunity to comment on the changes the Reserve Bank of Australia (RBA) proposals to vary surcharging standards.

The AHA supports the RBA's efforts to keep surcharges on card payments as low as possible for consumers and at the same time to allow retailers the discretion to sensibly recoup the cost of providing these services.

The AHA has concerns regarding the practicalities of the RBA's proposals for its members which would also impact on small businesses generally to accurately determining reasonable costs, and regarding the introduction of any additional compliance burdens and the enforcement of these.

- **Accurately determining reasonable costs and additional compliance burdens**

The RBA's view is that consumers will benefit from merchants being allowed to recover the reasonable cost of acceptance through applying a range of surcharges for different card types. This will be an efficient and effective way of setting price signals in the market.

However, it is important that small businesses can in, the simplest possible way, determine a reasonable range of appropriate surcharges without having to meet unreasonable new compliance burdens.

AHA members advise that when asked to provide split pricing guidance, acquirers have provided overly complex information that includes dozens of different card types.

The AHA is of the view that this makes complying burdensome for a merchant who has to calculate and communicate these surcharges for all card types and recalculate these

¹ *Australian Hotels: More than just a drink and a flutter* (2009) PricewaterhouseCoopers

when they change. Many of our members are unlikely at this stage to possess the technology necessary to provide split pricing to merchants for every card type.

AHA members are most concerned that any additional complexity may result in consumers being provided with confusing information. The RBA's proposals will also require more staff training and increase the risk of mistakes, therefore merchants are likely to take the simplest avenue of a blended surcharge across card schemes. The most likely result of this would be the failure of our members to recover all of their costs from providing credit card payment options.

The AHA believes it is important that, for the purposes of surcharging regulation, card types be limited to a small and manageable number of card categories, making it easier for the consumer to choose and for the merchant to comply. It would also make sense for the RBA to facilitate acquirers using a standardised format for communicating costs to merchants when negotiating prices. An agreed format could also appropriately provide general guidance to merchants on acceptable surcharges for each category, further reducing compliance burdens.

- *How will these changes be enforced?*

It would appear that the RBA intends to enforce the card schemes through acquirers, to monitor compliance and the enforcement of reasonable cost of surcharging. It is unclear at this stage what enforcement measures and penalties may apply, other than the suggestion that a breach of the amended card scheme rules could likely result in the termination of a contract between merchant and acquirer.

The RBA has also implied in the following statement that merchants will need to negotiate acceptable levels of surcharges when negotiating pricing with acquirers. The RBA stated that:

“At a minimum, there would be costs involved in the time taken for merchants and acquirers to negotiate over the pricing to the merchant and the level of the surcharge. It is recognised that such negotiations may have a greater effect on smaller merchants because they tend to have fewer resources or specialist personnel to deal with such negotiations”

Small businesses have limited bargaining power in comparison with acquirers and the AHA submits that having the acquirers police surcharging as part of this process is inappropriate and unacceptable. The AHA believes the compliance and enforcement task is best managed by the RBA or some other independent body and certainly not by the card schemes. The RBA should set merchant guidelines for enforcement measures and police these to ensure that the worst offenders face sensible penalties for not complying.

The AHA also submits that it is part of the RBA's role to provide advice on surcharging, in much the same way as the Fair Work Ombudsman provides employers with advice on correctly paying employees. The scope for disputes between acquirers and merchants on surcharging should be limited so that they may maintain an appropriate merchant/acquirer commercial relationship.

Where disputes arise over appropriate surcharge rates there should be a low cost dispute resolution process to quickly resolve these issues with the RBA. The RBA must also provide suitable tools and education materials for merchants on this issue before implementation. This is an area where associations could assist the RBA with providing this advice to the industry.

The AHA is strongly of the view that the proposed reforms will not achieve their goals unless there is proper enforcement and guidance, particularly for small businesses which will be most affected by any increase in regulatory compliance burdens. We would be happy to discuss this issue further.

Yours sincerely

A handwritten signature in black ink, appearing to read "Des Crowe". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping underline.

Des Crowe
National Chief Executive Officer