Tech Council of Australia

Merchant Card Payment Costs and Surcharging

Tech Council of Australia Submission

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1. Introduction

Thank you for the opportunity to make a submission to the first phase of the Reserve Bank of Australia's (**RBA**) Review of Retail Payments Regulation on merchant card payment costs and surcharging (**the consultation)**.

The TCA is Australia's peak industry body for the tech sector. The tech sector is a key pillar of the Australian economy, with the tech sector Australia's third largest industry behind mining and banking, and Australia's seventh largest employing sector. The TCA represents a diverse cross-section of Australia's tech sector, including fintech startups and scale-ups, and global tech companies.

Australia is home to a range of globally successful fintech companies, including Afterpay, Airwallex, and Tyro. Payment technology in particular has emerged as one of the top tech segments where Australia has a comparative advantage, helping to drive improved competition and consumer outcomes while also creating new sources of economic growth and jobs, Australia's financial regulatory environment has helped to foster innovation and create an environment for fintech startups to thrive, and has in turn attracted global fintech companies to Australia including globally innovative fintech companies such as Stripe and Block.

In this context, it is critical that payments reforms continue to protect consumers and foster innovation in Australia's fintech ecosystem, driving competition and resulting in better choice and lower costs for small businesses and consumers.

The consultation raises significant questions around how to advance the interests of consumers and small businesses and ensure Australia's regulatory frameworks for payments fosters and incentivises innovation. We consider that the key question at the heart of the consultation paper is one about innovation and ensuring that Australia has the right incentives in place for innovation in payments. We agree that this is the key question to consider in this context, and it is crucial that small businesses get the benefit of that innovation, with benefits flowing across the economy.

We believe that any reforms should enable Australia to be a globally competitive leader in the digital economy. Australia has demonstrated it can produce globally competitive fintech companies. This, in turn, has led to the entry and establishment of international fintech companies in Australia. The combination of local and international fintech companies in Australia has improved competition and placed downward pressure on payment processing fees for merchants, which in turn has forced incumbent players to improve their products and services. This has also ensured that small and micro businesses in Australia have received innovative products that serve their needs.

As a result of competition, the cost of electronic payments has come down significantly in Australia in the last 8-10 years, with Australia now one of the lowest cost markets globally for the acceptance of payments. If Australia is to be a leader in the digital economy, regulatory interventions must be fit for purpose, proportionate and targeted so as not to re-concentrate power in the hands of incumbent players.

In this response to the consultation paper, we make 5 recommendations:

Recommendation 1: continue to allow simple pricing models from PSPs that provide incentives for innovation for fintech companies, and deliver value-added services to merchants, in particular small merchants.

Recommendation 2: Government should mandate least-cost routing, which will deliver lower payment costs for consumers using debit cards.

Recommendation 3: Improve transparency with respect to scheme fees.

Recommendation 4: Focus on enforcing existing laws that prevent excessive surcharging rather than banning surcharging.

Recommendation 5: Require a tech-neutral, surcharge-free digital option for payments.

Recommendation 6: Support greater competition and innovation in card issuing as part of potential changes to interchange and scheme fees.

2. Small merchants would be particularly affected by a ban on surcharging

The discussion in the consultation paper regarding the framework for payment surcharging in Australia does not fully reflect the evolving landscape of payment services and the increasing value merchants, in particular small merchants, derive from these services. While the cost of a transaction is a significant factor, it does not encapsulate the fixed costs associated with providing payment service provider (**PSP**). Services to businesses (including those relating to fraud, anti-money laundering, provision of hardware and customer service). In addition, it does not recognise the full spectrum of benefits that merchants receive via their PSPs.

Merchants today have access to a suite of value-added services that enhance their operational efficiency and customer experience. These services, often integrated into payment platforms, may include inventory management, loyalty programs, and advanced analytics. These tools empower merchants to make data-driven decisions, streamline their operations, and foster stronger customer relationships. The ability to manage their businesses more effectively through these productivity-enhancing tools significantly increases the value merchants derive from PSPs beyond the mere processing of transactions.

Australian consumers are increasingly adopting value-added payment cards that offer rewards and benefits. While these cards provide convenience and value to consumers, they also incur additional costs for merchants. In the absence of the ability to surcharge, merchants are effectively subsidising these consumer benefits, which can disproportionately impact smaller businesses, such as those in the hospitality sector.

Many of these businesses are already operating on very thin margins and are turning to surcharging to offset rising costs and maintain their viability.

As a result, smaller merchants who use value-added payment systems would be disproportionately affected by a ban on payment surcharging.

Many small and micro merchants in Australia use simple or blended pricing products that are offered by PSPs, where merchants pay a flat fee for any card that a consumer uses, enabling merchants to accept all cards. These products have been successful because they deliver simple, predictable, value-driven services to merchants. A ban on simple pricing models (that include a surcharge element to the pricing model) will have four negative impacts:

1) It will reduce competition between PSPs, leading to increased costs
2) Both merchants and consumers will increasingly be confronted by complex card type/scheme rates tables, which are meant to be a price signal but instead serve to confuse, likely increasing the time to complete a transaction
3) Some small and micro businesses will lose access to card acceptance altogether, as PSPs (particularly local fintechs) are driven out of the market and servicing microbusinesses becomes uneconomical, and
4) Access to PSP's value-added services available (PoS, businesses software integrations, etc) will be reduced, harming productivity and increasing operational costs.

Simple pricing plans incentivise the PSP to use lower cost payment networks to process transactions, with PSPs having a greater negotiating power with card schemes than merchants have alone. These savings can, and are, passed through to consumers, ensuring that they receive the benefits of PSPs' greater negotiating power compared to that of small merchants.

Merchants are seeing the benefits of greater competition and product diversity in PSP offerings. RBA data shows that the PSP market is the most competitive and diverse in the retail payments chain, with market concentration well below that of card issuing, mobile device operating systems or the card schemes. Since simple pricing models have been available in Australia, market concentration has reduced and average total Merchant Service Fees have consistently declined over the last decade.

Any reforms related to payment surcharging needs to ensure that it accurately reflects the evolving nature of payment services and the broader value they provide to merchants. Allowing merchants, particularly small merchants, to pass on the costs associated with value-added services and consumer-preferred payment methods, Australia's regulatory framework can continue to promote a more equitable and sustainable payment ecosystem for all stakeholders.

3. Impact of banning surcharging on innovation

Australia has a rich history of fostering innovation in the fintech sector. Fintech innovation has revolutionized the way Australians and beyond shop and pay, and has demonstrated the potential for local innovation to reshape the global payments landscape. A ban on surcharging could stifle this momentum, discouraging investment in new payment technologies and hindering the development of innovative solutions.

In the right context surcharging can provide an crucial incentive for merchants to adopt new payment technologies and services, which enhances productivity in the business and leads to better outcomes for consumers. It can encourage greater competition and efficiency in payment methods and allow merchants to embrace cutting-edge solutions that can benefit both businesses and consumers.

Moreover, a vibrant and competitive payments ecosystem is essential for driving economic growth and efficiency. Innovation in payments can lead to reduced transaction costs, increased financial inclusion, and enhanced security. By incentivising innovation, surcharging can contribute to a more efficient, productive and inclusive economy.

A ban on surcharging could have a significant negative impact on the incentives for innovation in the Australian payments industry. By limiting the ability of merchants to recoup the costs of new technologies and services, it could stifle the development of innovative solutions that can benefit both businesses, particularly small businesses, and consumers. A debit surcharge ban, or mandating differential pricing of card transactions, is particularly concerning as it would limit substantially limit merchant choice and competition in the PSP market.

To maintain Australia's position as a global leader in producing innovative fintech companies, and as a global leader in adopting new payments technologies, it is crucial to preserve a regulatory environment that supports innovation and competition in the payments sector.

4. Recommendations for reform

There are a range of options for addressing the issues identified in the consultation. However, we also note the sheer number and range of other consultations and potential reforms impacting fintech companies currently, including in relation to scams, buy now pay later and the use of cash. These other reforms have a significant impact on the ability of these companies to make further changes to their business models, and does not allow this consultation the benefit of considering the impact of these other reforms.

As outlined above, we do not consider that a ban on debit surcharging is the appropriate response to concerns regarding the costs being passed on to consumers. We consider that there are better, targeted responses to the issues that the consultation raises, and in response to the issues we make the following recommendations:

Recommendation 1: continue to allow simple pricing models from PSPs that provide incentives for innovation for fintech companies, and deliver value-added services to merchants, in particular small merchants.

Hundreds of thousands of small and micro have chosen simple/blended pricing products offered by Acquirers/PSPs, where merchants pay a flat fee for any card — meaning that low-cost debit cards cost the same to accept as high-cost international cards. This has provided simple, predictable, value-driven services to small merchants, and reduces uncertainty by allowing small merchants to accept any card and ensuring that they never miss a sale.

Recommendation 2: Government should mandate least-cost routing, which will deliver lower payment costs for consumers using debit cards. We support the RBA's view that mandatory least cost routing should be mandated in Australia.

Recommendation 3: Improve transparency with respect to scheme fees. As the RBA has previously noted, scheme fees are an important component of the costs faced by merchants to accept card payments, as well as the costs borne by issuers for providing card services to their customers.[1]

We agree with the RBA's conclusions that transparency is an important mechanism for improving efficiency and competition in the payments system, and that improved transparency regarding scheme fees could lead to a number of benefits, improving competition and ultimately delivering better products and services to consumers. There are also benefits to merchants, in particular smaller merchants, by allowing them to understand their card payment costs and make more informed choices about the payments that they accept.[2]

Recommendation 4: Focus on enforcing existing laws that prevent excessive surcharging.

Instead of banning surcharging, there is anecdotal evidence to suggest that some merchants are charging consumers excessive surcharges. We consider that there should an increased focus by regulators such as the ACCC on enforcing existing laws that ban excessive surcharging, rather than banning surcharging altogether.

Recommendation 5: Require a tech-neutral, surcharge-free digital option for payments.

Australia is one of the only jurisdictions in the world that uses both a combination of caps on interchange and surcharging in payments regulation. As the digital payments landscape has changed immensely — such as the UK and EU phasing out surcharging — it is an open question whether payments surcharging generally still remains fit for purpose.

[1] Reserve Bank of Australia, Review of Retail Payments Regulation, October 2021
[2] Reserve Bank of Australia, Review of Retail Payments Regulation, October 2021

However, if a surcharging regime is retained it must ensure that the original intent of the policy to promote competition and efficiency in the payments sector. Banning surcharging is likely to undermine these policy goals.

Rather than banning debit surcharging, Australia has the opportunity to look to the future and embrace a tech-neutral solution. If a partial ban on surcharging in enacted, businesses should be required to offer one surcharge-free form of digital payment. This could take the form of debit transactions or also account-to-account (**A2A**) payments (often paid via QR code or PayID credential) via the New Payments Platform (**NPP**). In future it could also apply to new payment methods that are not currently commonplace.

Australians are enthusiastic adopters of new technology, which has made Australia a standout market for international tech companies to test, tweak and roll out new features and products here first.

While A2A payments might be a relatively small proportion of overall retail spending today, Australia has the right ingredients to encourage adoption of tech-neutral solutions that embrace the future of payments, not the past. This would be accelerated dramatically with an incentive for both merchants and consumers to adopt this new form of payment via the surcharging regime. The benefits of which have been National Competition Policy[3], which highlighted increased takeup of the NPP as a key competition reform for the financial services sector.

Importantly, this would supercharge local fintechs, providing meaningful competition to card networks and the considerable Government investment in Australia's NPP.

Recommendation 6: Support greater competition and innovation in card issuing as part of potential changes to interchange and scheme fees.

The consultation highlights reductions in interchange in the aim of reducing costs in retail payments. One unintended consequence of this is that it reduces the viability of card issuing, particularly for smaller issuers who do not have the same economies of scale or ability to cross-subsidise issuing with other products. This is particularly concerning as card issuing in Australia remains highly concentrated with limited new market entrants.[4] Longer term, this limits opportunities for innovation and payment startups to enter the market and the resulting lack of competitive tension places upward pressure on costs. To address this, the Government should consider incentives or differential interchange for small issuers as part of its consideration of changes to interchange.

[3] National Competition Policy: Modelling proposed reforms , 2024
[4] Reserve Bank of Australia, Review of Retail Payments Regulation – Conclusions Paper, 2021