



Financial System Inquiry

THE AUSTRALIAN RETAILERS ASSOCIATION

SUBMISSION TO THE RESERVE BANK

OF

AUSTRALIA

April 2015

**Australian Retailers Association**

Level 10, 136 Exhibition Street  
MELBOURNE VIC 3000  
Tel: 1300 368 041  
[info@retail.org.au](mailto:info@retail.org.au)

**Russell Zimmerman** Executive Director

[russell.zimmerman@retail.org.au](mailto:russell.zimmerman@retail.org.au)

**Heath Michael** Policy Director

[heath.michael@retail.org.au](mailto:heath.michael@retail.org.au)

Date: 24 April 2015

**Australian Retailers Association**

**- Voice of the Retail Industry**

For over 110 years, the Australian Retailers Association (ARA) has been the peak industry body in Australia's \$265 billion retail sector which employs over 1.2 million people. As an incorporated employer body under the Fair Work (Registered Organisations) Act 2009 and with a range of member services including employment relations, policy development, advocacy and education, the ARA promotes and protects over 5500 independent and national retailers throughout Australia.

The ARA provides leadership and solutions to improve the long-term viability, productivity and visibility of the retail industry by proactively dealing with government, media and other regulatory bodies on behalf of our members. ARA members comprise a diversity of sizes and types of retailers reflecting the profile of the retail industry, ranging from large national chain retailers to one-person operators throughout the nation.

Dr Tony Richards  
Head of Payments Policy Department  
Reserve Bank of Australia  
GPO Box 3947  
Sydney NSW 2001

[pysubmissions@rba.gov.au](mailto:pysubmissions@rba.gov.au)

## OVERVIEW

The Australian Retailers Association (ARA) welcomes the opportunity to provide recommendations to the Reserve Bank of Australia (RBA) on the Financial Systems Inquiry (FSI).

The Inquiry's report covers a broad range of topics and this submission focuses on the observations made and policy options put forward by the Inquiry with respect to the payments sector.

The ARA broadly supports the intent of many of the recommendations for payments in the report however we do have concerns that layering more regulation to rectify current regulatory issues could leave a more complex system which has not fixed the fundamental issues within the payments system.

As outlined in our FSI submission retailers in Australia are facing a difficult operating environment. In the last ten years, the structure of the retail sector has shifted and evolved as a result of globalisation, advances in the digital economy and changes to business practice policies (such as employment, changes to card payments).

The ARA offers support, information, and representation to around 5500 retailers across the nation, representing approximately 50,000 shop fronts and works closely with Governments, the Reserve Bank of Australia (RBA) and other industry participants to ensure the long-term viability and position of the retail sector as a leading contributor to Australia's economy.

We believe that the ARA membership and retailers in general are well placed to comment on Australia's payments system having direct exposure to its operations and to its cost structures which is particularly important given the level of competition, significant cost pressures, reduced margins, falling growth and wages costs that are well above our international competitors facing retailers today.

The ARA represents the interests of merchants within the important payments sector of the economy. It is critical that the perspective of merchants is considered in addition to those of schemes, issuers, acquirers and cardholders. Merchants make significant investments in payments infrastructure and are essential components of the payments system.

The Reserve Bank of Australia (RBA) has been a global leader in reform of payments systems, particularly card payments systems, but Australia is now beginning to fall behind other jurisdictions around the world, both in scope of reforms and in the quantum of some reforms. For this reason we are now proposing a cooperative approach with all key stakeholders to reduce regulation, lower costs for business and reduce or remove surcharging through those lower costs.

The ARA believes that there are a number of issues that have been identified in the Inquiry's Interim Report that need to be addressed to ensure that Australia's payment system remains competitive and to remove the harm of rising costs to retailers from unintended consequences of the reforms.

## ARA POSITION

- The ARA supports the Inquiry's observation that regulation of credit card and debit card payment schemes is required for competition to lead to more efficient outcomes. However, differences in the structure of payment systems have resulted in systems that perform similar functions being regulated differently, which may not be competitively neutral. We now risk entering an over regulated environment which will still not achieve desired outcomes.
- The ARA believes that all of the payment systems need to be subject to the same regulatory obligations.
- The introduction of high interchange premium cards has significantly increased costs to merchants who are not in a position to negotiate lower interchange fees directly with the card schemes and this difference in purchasing power reduces retailers ability to compete with dominant retailers who are on a merchant strategic rate.
- The government and its regulators should further explore the option of Merchants having the choice of routing for all payment transactions including, but not limited to American Express transactions and debit transactions
- In principle the ARA believes surcharging is not a good customer experience with the majority of retailers avoiding the practice on lower cost regulated cards. The ARA believes that permitting merchant surcharging on credit and debit cards has been pro-competitive and as such has been a positive regulatory intervention in relation to non regulated payment systems. Where regulated systems are in relatively secure payment environments there is little charge back to merchants. However in less secure web based environments there is still a case for surcharging. An ability should remain to surcharge non regulated payment systems. The ARA also recognises the costs of cash and the regulated systems can be competitive with those cash costs.

## THE SUBMISSION

The ARA agrees on the following guiding principles for the future regulation of the Australian Payments System as an alternative to the options which have been presented in the FSI and by the RBA. We believe the major regulated payment systems would be supportive of these principles.

### Surcharging

- Principles based surcharging, where there is no surcharging allowed for low cost systems (eftpos and debit) and businesses permitted to apply a surcharge which reflects the cost of acceptance for credit.
- To ensure that there is no cross subsidisation, blended surcharging not permitted.
- ACCC given powers to enforce this policy, particularly excessive surcharging. Consumers able to report excessive surcharging to ACCC.

### Level Playing Field

- Any regulation must apply equally to all payments systems including American Express, Diners, Union Pay, JCB, PayPal.
- A threshold set at 1.5% of retail payment transactions market share before regulation is applied
- Regulation to capture new forms of payment systems under this model as they emerge

## Interchange

- A significant and meaningful reduction in the disparity which currently exists between large and small merchants
- A defined range of interchange rates applied to industries and products
- An annual reset to ensure regular compliance with a weighted average of 50 basis points for interchange rates
- Allowance of 'special rates' for a defined period of time, to allow schemes to incentivise new technologies and innovations in the market (to recognise that large merchants can assist with early adoption through leverage of their scale)
- Acquirers to separate debit and credit rates in their provision of pricing to all merchants

## Regulation

- RBA consultation regarding changes to payments system regulation be placed on hold pending an alternative industry-led solution
- RBA regulation be placed on hold to accommodate the industry-led solution

## Proposed changes to government have been

Both the ARA considers there is strong merit in pursuing an industry-led solution as an alternative to Recommendation 17 in the final FSI report with options already put forward with the key support on industry players.

Recommendation 17 identified a number of objectives. These include:

- Addressing unreasonably high surcharging costs for consumers;
- Reducing the cost disparity for large and small merchants, which has resulted from current regulations; and
- Applying regulation to all participants in the payments system so to achieve a level playing field.

However we have serious concerns about many of the mechanisms proposed to achieve these objectives. From our perspectives there are alternative options which would ensure fairness, efficiency and competition in the payments system, whilst also maximising the benefits to Australia's consumers and businesses.

*Below* are a set of 'Principles' which the ARA has put forward. We have also held discussions with many other stakeholders in the Payments Systems. These principles do not represent the 'best case scenario' for the ARA, its members, and many other industry participants. However, the principles do represent a compromise solution, which we consider would both address the FSI's objectives, and provide substantially better outcomes for all participants than those currently recommended by the FSI.

We would respectfully request that an industry roundtable be convened to discuss these principles, and to seek industry consensus on the best way forward. A properly constructed industry roundtable would create an environment conducive to discussion and compromise from all participants.

To date we have already engaged with the RBA, as well as Treasury Ministers and Treasury.

## Timing

- Targeted commencement of November 2015 for all items

The ARA urges the government and regulators to review the cost structure of the payments and work with stakeholders on agreed achievable outcomes. We support the view that the regulation of credit card and debit card payment schemes is required for competition to lead to more efficient outcomes however there are issues with the current regulatory framework that are driving up costs for retailers that need to be addressed.

Kind regards,



Russell Zimmerman  
Executive Director  
Australian Retailers Association

**Please note:** In 2004 Russell Zimmerman was appointed as Chair of the Australian Merchant Payments System (AMPF). The AMPF works with the major retailers including Coles, Woolworths, Australia Post, BP and Caltex, Reject Shop and the 5,500 members of ARA.

"Not all the views expressed are supported by some AMPF members".

## Agreed Principles

### Surcharging

- Principles based surcharging, where there is no surcharging allowed for low cost systems (eftpos and debit) and businesses permitted to apply a surcharge which reflects the cost of acceptance for credit and charge cards. To ensure that there is no cross subsidisation, blended surcharging not permitted.
- ACCC given powers to enforce this policy, particularly excessive surcharging. Consumers able to report excessive surcharging to ACCC.

### Level Playing Field

- Any regulation must apply equally to all payments systems including American Express, Diners, Union Pay, JCB, PayPal.
- Regulation to capture new forms of payment systems under this model as they emerge
- A threshold set at 1.5% of retail payment transactions market share before regulation is applied

### Interchange

- A significant and meaningful reduction in the disparity which currently exists between large and small merchants
- A defined range of interchange rates applied to industries and products
- An annual reset to ensure regular compliance with a weighted average of 50 basis points for interchange rates
- Allowance of 'special rates' for a defined period of time, to allow schemes to incentivise new technologies and innovations in the market (to recognise that large merchants can assist with early adoption through leverage of their scale)
- Acquirers to separate debit and credit rates in their provision of pricing to all merchants

### Regulation

- RBA consultation regarding changes to payments system regulation be placed on hold pending an alternative industry-led solution
- If successful, RBA regulation be placed on hold to accommodate the industry-led solution

### Timing

- Targeted commencement of November 2015 for all items