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EDR Review Secretariat
Financial System Division
Markets Group
The Treasury
Langton Crescent
PARKES ACT 2600

Attn: Professor Ian Ramsay

By email: EDRreview@treasury.gov.au

Dear Professor Ramsay

Thank you for the opportunity to provide our comments and feedback in response to the Issues Paper on the review of the financial system external dispute resolution framework. PayPal Australia Pty Ltd is a member of the Financial Ombudsman Service of Australia (**FOS**) in relation to our provision of non-cash payment facilities to consumers and businesses. It is in this context that we make the following general submissions on the Issues Paper.

1. Approach to measuring effective outcomes

To the extent they are not already, outcomes measuring effectiveness should be defined by reference to Financial Service Provider (**FSP**) performance. Of particular utility would be the mapping of FSPs against recurring issues raised by complainants and assessing any improvement or decline in an FSP's minimalisation of those instances. This could provide value in measuring:

- The effectiveness of FOS as a deterrent to FSPs acting in a manner inconsistent with their terms and conditions on a systemic or recurring basis; and
- The efficiency of consumption of FOS' internal resources.

2. FOS fee structure

Despite the positive intention upon which the current FOS fee structure appears to be based, PayPal's experience to date is that it does not incentivise FSPs to quickly resolve complaints through the FOS process. As a consequence, in our view, the ultimate costs of FOS are greater than they otherwise could be and these costs are passed on to all consumers via cost transmission through a FSP's business. Inevitably, at an industry-wide level, this offsets the "free" nature of the FOS service to consumers.

In our view, a more efficient fee structure that promoted effective, timely and amicable outcomes for users could be constructed in a manner that would incentivise FSPs via rebates or refunds for improving their IDR or other processes that lead to a material reduction in, or quicker resolution of, complaints.

4. Increasing regulatory collaboration

The schemes should assist members in improving their standard form contracts with users and the operational alignment with them in a collaborative and consultative way. This can facilitate updates from members about changes to their service offering and/or standard form contracts, and updates from the scheme about industry trends and changes to any processes or focus areas. In our view, this approach is highly likely to benefit consumers in their experience of improved standard form contracts and operational consistency.

5. Developments in overseas jurisdictions

We would support any implementation in Australia of the consolidation and jurisdiction arrangements that the United Kingdom implemented as outlined in paragraphs 81 to 84 of the Issues Paper.

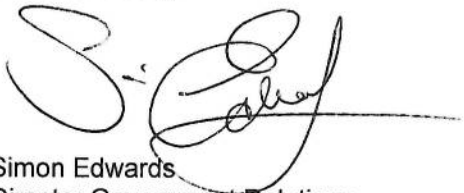
6. Uncompensated consumer loss

The challenges of statutory compensation schemes for uncompensated consumer losses in the financial services sector have been exhaustively considered by parliamentary, regulatory and external inquiries (including the Financial System Inquiry). The ongoing concern of the moral hazard created by a last resort scheme should not be summarily dismissed as it will inevitably lead to economic inefficiency across the financial system and exacerbate the incentive to poor behaviour by those FSPs who fail to provide financial protection for their customers.

One alternative for dealing with uncompensated consumer loss attributable to the insolvency of a FSP is to amend and/or clarify the provisions of Chapter 5 of the Corporations Act in a way that bolsters the creditor priority of recipients of monetary awards under a determination by a scheme.

We would welcome the opportunity to further discuss our submission with the Review panel. I can be contacted via telephone 02 9258 7459 or email siedwards@paypal.com

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Edwards', written over a horizontal line.

Simon Edwards
Director Government Relations