



EXECUTIVE OFFICE

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Dear Director, Payments Policy and Strategy Unit,

A Strategic Plan for the Payments System – Consultation Paper

The Australian Competition and Consumer Commission (**ACCC**) welcomes the opportunity to make a submission in response to the Treasury's consultation paper on a strategic plan for the payments system.

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading, and product safety for the benefits of consumers, business, and the Australian community. The primary responsibilities of the ACCC are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the Competition and Consumer Act 2010 (CCA), regulate national infrastructure and undertake market studies.

The ACCC engages with issues relating to the payments system in a range of different contexts, including through:

- enforcement work addressing anti-competitive conduct;
- advocating for competitive outcomes in payments markets, through our role in relation to the Consumer Data Right (**CDR**);
- consumer protection actions combatting scams, including the ACCC's Scamwatch function and the establishment of the National Anti-Scams Centre;
- authorisations and exemptions in the payments sector, such as the merger authorisation of BPAY, eftpos and NPPA; and
- collaborating with other financial regulators to enhance competition and consumer outcomes relating to financial services and the payments system.

The ACCC notes the importance of a well-functioning payments system to facilitate dynamic and innovative markets, and good consumer outcomes across the Australian economy.

ACCC responses to consultation questions

Question 1: Key principles

The ACCC supports the proposed key principles but submits that 'competition' should be included as an additional key principle:

A competitive payments system is one which promotes competition between payments services and providers, including by providing efficient access to infrastructure. A competitive payments system should provide incentives for efficient investment, promote innovation in enhanced services in response to evolving technology, business models and consumer demands and support good consumer outcomes.

We note with support that the consultation paper identifies competition as a relevant issue in relation to a number of principles, priorities, and innovations. However, the ACCC considers that facilitating and promoting competition is fundamental to the overarching goals of payments system reform and should accordingly be included as a stand-alone key principle. Among other things, competition is a key driver of efficiency, innovation, and ensuring accessibility (including consumer choice and lower prices).

The ACCC submits that adopting competition as a key principle would better enable all priorities and initiatives to be designed in a way that promotes competition as well as the existing principles of efficiency, innovation, accessibility, and trustworthiness.

A key 'competition' principle would also support responsiveness to the evolving payments landscape. As stated in the paper, 'new technology, business models and participants are providing increased transaction convenience and more payment methods but are also giving rise to greater complexity and new risks.' The ACCC considers that key risks in this environment include the creation of new barriers to entry or the establishment of new dominant players, and it is fundamental to consider competition when considering regulatory responses across the sector.

Question 2: Key priorities

The ACCC broadly supports the proposed key priorities, however considers they could be improved through a greater emphasis on consumer protection and efficiency.

Consumer protection is critical

The key priority of 'promoting a safe and resilient payments system' can only be achieved with comprehensive and robust consumer safeguards. These are essential to building and maintaining trust in the payments system.

While the evolving payments landscape provides many opportunities for businesses and consumers, there are also increased risks. These risks are not limited to instances of scams or fraud, but extend to the full range of harms to consumers in their use of the payments system from misleading, false, unfair, manipulative, and other unlawful conduct. Moreover, the ACCC considers that consideration should also be given to whether systems and processes are designed to ensure consumers are able to make fully informed decisions, particularly as payments evolve in a digital economy.

Comprehensive consumer protections to address these risks must be a part of the regulatory design process and should be reflected in key priorities and supporting initiatives. For example, the ACCC considers that clear and robust safeguards must be put in place before the CDR is expanded to action initiation.

In relation to scams and fraud, adequate consumer protection should include proper redress for victims. For example, our discussion of the ePayments code below notes that there are currently substantial gaps in protection for victims of scams and fraud, which must be addressed.

Efficiency

The ACCC considers that the third key priority, 'Ensuring alignment with the broader digital economy transformation' should additionally make reference to the principle of 'efficiency'. In striving to be efficient, the payments system should support interoperability, create opportunity for innovation, and allow new market entrants to develop new and valuable products and services. This would strengthen competition, particularly by enabling smaller organisations to leverage investment across different payment systems and initiatives. One example of an opportunity for greater efficiency is the alignment of standards supporting CDR including payment initiation with payment systems such as the New Payments Platform. Lack of alignment would put smaller organisations at a competitive disadvantage, because compliance and investment costs are disproportionately a greater burden for them.

Questions 3 and 4: Key initiatives

The ACCC is generally supportive of the proposed key initiatives seeking to drive competition and to ensure consumer interests are protected.

Strengthen and mandate the ePayments Code

The ACCC supports mandating the ePayments Code for all holders of a payments licence, as the ability of the ePayments Code to provide protection against certain financial losses is fundamental to ensure the payments system is operating in the interests of Australian consumers. However, the consumer protection measures in the ePayments Code do not currently apply to victims of scams and fraudulent activity.

The ACCC considers that protection for scam victims is fundamental to a safe, resilient, and trustworthy payments system, and submits that appropriate measures could be implemented through either strengthening the existing ePayments code or the development of a separate industry code explicitly covering financial service providers' obligations with respect to scams. The ACCC submits that this should include a consideration of the protections suggested in the ACCC's response to ASIC's review of the ePayments Code,¹ including the introduction of:

- a reimbursement model to protect scam victims who have been tricked into authorising a transfer, and
- a payee/account name check during the electronic payment process.

Such measures would give all payment system providers clarity regarding their obligations, whilst simultaneously allowing consumers fair and transparent outcomes. They would also provide a clear incentive for payment system providers to make further investments in technology and processes to better protect their customers against scams.

Alignment with the broader digital economy transformation and Modernising Payments Infrastructure

The ACCC supports the initiatives outlined by Treasury to ensure the payments system is aligned with other developments across the digital economy, such as the Consumer Data Right, and to support the transition to more modern payments infrastructure.

A key benefit of complementary initiatives being aligned under a single strategy banner is that it enables both government and private sector investment to be optimised. Clarity and transparency regarding investment priorities for payments infrastructure and related digital

¹ [ACCC, Submission No cp310 to Australian Securities and Investment Commission, Review of the ePayments Code \(6 February 2020\).](#)

infrastructure provides the certainty required to encourage competitive innovation and avoid unproductive investment.

We note that it nonetheless remains important to ensure that consumers still using legacy systems are provided with adequate protections during any transition period. Assuring that the established governance processes provide clear direction and expectations will enable these investment decisions to move the entire payment system forward to better meet the ongoing needs of the whole economy.

Support international efforts to enhance cross-border payments

In recent years the ACCC has conducted market studies relating to cross border commerce in financial services and digital platforms. This work has led the ACCC to conclude that international regulatory collaboration is critical if consumer interests are to be adequately protected while commerce grows. The ACCC therefore agrees with the initiative outlined by Treasury to support the G20 Cross-Border Payments Roadmap and its purpose of addressing the challenges of cost, speed, transparency, and access in regard to cross-border payments. The ACCC, in its 2019 Foreign Currency Conversion Services Inquiry [Final Report](#), found that it can be challenging for consumers to make informed decisions about FX services. This is due to pricing complexity, suppliers presenting prices in different ways, and lack of price transparency. The ACCC continues to monitor the industry and encourage transparency and competition in line with the G20 roadmap.

Yours sincerely

A handwritten signature in cursive script that reads "Gina Cass-Gottlieb".

Gina Cass-Gottlieb
Chair