

24 May 2021

Dr Patrick Hodder
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 1600
Parliament House
CANBERRA ACT 2600
Email: corporations.joint@aph.gov.au

Dear Dr Hodder

MOBILE PAYMENT AND DIGITAL WALLET FINANCIAL SERVICES

The Australian Finance Industry Association (AFIA) appreciates the opportunity to make a submission to the Inquiry into Mobile Payments and Digital Wallet Services.

As context for our submission, AFIA is a leading advocate for the Australian financial services industry. Our role is to support our members to finance Australia's future. We believe that our industry can best support Australia's economy by promoting choice in and access to consumer and business finance, driving competition and innovation in financial services, and supporting greater financial, and therefore social, participation across our community.

AFIA represents over 100 providers of consumer, commercial and wholesale finance across Australia. These banks, finance companies, fleet and car rental providers, and fintechs provide traditional and more specialised finance to help businesses mobilise working capital, cashflow and investment. They are also at the forefront of financial innovation in consumer finance.

OUR SUBMISSION

AFIA's submission focuses on the economic, regulatory and policy settings that are required to foster an environment that supports competition and innovation in the financial services and payment sector, and also ensures continued consumer protection.

We understand that the Inquiry is seeking to understand, amongst other things, the nature of the commercial relationships between financial services providers and the providers of digital wallets and mobile payments technology. We have provided some general comments in this area. However, AFIA is not able to provide detailed information as it is commercially sensitive. Our members may make individual submissions to the Inquiry, which would provide greater insight into these arrangements.

In his speech on innovation and regulation in the Australian Payments System in December 2020, the Reserve Bank of Australia (RBA) Governor, Philip Lowe, said 'the structure of payment systems is changing... it is now better to think of a payments ecosystem, rather than a payments system. In this

ecosystem, there are more entities involved and new technologies used. This more complex and dynamic environment is opening up new opportunities for innovation...'.¹

This dynamic environment is creating opportunities to maximise choice in and access to financial products and services, and to foster competition and innovation in financial services, including attracting new entrants into our financial system. This is providing Australian consumers and small businesses with convenient, simple, and efficient payment options which in turn supports greater financial, and therefore social, participation across our community.

However, this innovation also has the potential to create new risks – risks to financial wellbeing, risks to data security, and regulatory risks. Our members are also concerned there are competition issues arising from the involvement of mobile device manufacturers in the payments' ecosystem.

Therefore, AFIA believes that the Inquiry should focus on:

1. Encouraging competition and innovation in mobile payments technology by requiring open access to the near field communication (NFC) technology.
2. Promoting access to and choice in payments services for consumers and small businesses through a flexible and efficient regulatory architecture.
3. Supporting economic and social participation across our communities by ensuring there are adequate consumer protections in place.

RECOMMENDATION 1 – ENCOURAGE COMPETITION AND INNOVATION IN MOBILE PAYMENTS TECHNOLOGY BY REQUIRING OPEN ACCESS TO THE NFC TECHNOLOGY

The combination of the rise in the use of mobile payments, and the competition issues raised by the control that mobile device manufacturers have on access to the NFC technology requires a public policy response. To that end, we recommend the Inquiry consider whether we need regulation similar to that in Germany, which requires mobile device manufacturers to provide open access to the NFC technology.

RBA Governor Philip Lowe also noted while 'these wallets [were] clearly valued by consumers... at the same time, though, they are raising new competition issues'.²

Contactless payments are set to become the most popular way to pay, in store, by the end of the year.³ This form of payment using a mobile device is possible because of its near field communication (NFC) antenna. Providers, including for example credit card issuers and Buy Now Pay Later (BNPL) providers need access to this antenna, but it is controlled by the device manufacturer. AFIA is concerned that the duopoly (Apple and Android e.g. Google/Samsung) in this market is affecting competition, and by extension innovation, within the payments ecosystem.

Our members have raised a number of concerns in this area, including that:

- providers are required to enter into agreements with Apple to provide their customers with the ability to make contactless payments. Apple imposes non-negotiable conditions on providers, has different agreements for providers based on size (some with more onerous

¹ [Australian Finance Industry Association \(afia.asn.au\)](http://afia.asn.au)

² [RBA chief eyes Apple Pay, Google Pay competition crackdown - Finance - iNews](#)

³ [CBA predicts digital wallets set to become the most popular contactless way to pay \(commbank.com.au\)](http://commbank.com.au)

requirements than others), and it charges providers fees on a per transaction basis for the use of its Apple Pay service. One AFIA member commented 'Apple acts like it owns the payment mechanism when it is simply providing an avenue through which a payment can be made'.

- while Google and Samsung currently do not impose requirements on card issuers, members have shared concerns that there are limited controls or competitive pressures in the market that would prevent these entities from charging (or in the case of Apple, increasing) fees to access mobile wallets. These fees add costs to the system and its users (merchants, small businesses, and consumers), which the RBA has attempted to reduce in other aspects of the payments system through its regulation of interchange fees, where the fee relates to the provision of the transaction or payment.
- there are limited regulatory requirements that mobile device manufacturers treat providers equally. The asymmetry of influence that mobile device manufacturers have on cards within the wallet facility means that they can 'swap' the priority of cards/default cards, favouring cards of issuers that 'have a better deal' with them.
- providers are required to share data with certain mobile device manufacturers, raising concerns about data privacy and security.

Because of the commercial-in-confidence nature of individual commercial agreements between our members and the mobile device manufacturers, we are unable to provide further specific detail.

The competition concerns in this space prompted Germany to pass legislation giving German card issuers a statutory right to access the mobile device manufacturer's NFC antenna (forcing the manufacturers to grant access). We note precedents in other areas where regulation has been introduced to ensure infrastructure operators or hardware owners do not impede competition and innovation by other service providers.

AFIA recommends that similar legislation be introduced in Australia to ensure competition across the payments ecosystem.

RECOMMENDATION 2 – PROMOTE ACCESS TO AND CHOICE IN PAYMENTS SERVICES FOR CONSUMERS AND SMALL BUSINESSES THROUGH A FLEXIBLE AND EFFICIENT REGULATORY ARCHITECTURE

Australia's regulatory payments architecture is considered world class and has largely stood the test of time.⁴ However, we are now at an inflection point where the nature of payment services and solutions, traditionally the purview of the financial services industry, are being transformed by technology providers outside the sector, for example, mobile device manufacturers. As these participants and products evolve, it is going to be critical to ensure the regulatory architecture adapts and remains fit for purpose.

To this end, AFIA has made submissions to the Payments System Review⁵ and the Review of Retail Payments Regulation conducted by the RBA.⁶ In these submissions, AFIA recommended that regulation of payments should:

- balance competition and innovation with supporting access to a safe and efficient payments system

⁴ [Review of the Australian Payments System | Australian Payments Network \(auspaynet.com.au\)](#)

⁵ [Payments System Review \(afia.asn.au\)](#)

⁶ [070220 AFIA Submission-RBA Issues Paper -Retail Payments Regulation.pdf](#)

- be 'function based' not entity based
- be clear and not overlap.

As part of the 2021 Federal Budget, the Government announced changes to the way digital wallets are regulated, based on the Council of Financial Regulators' (CFR) report on Stored Value Facilities (SVFs).⁷

The recommendations in relation to the regulation of SVFs included that they should be introduced as a new class of regulated product, replacing 'purchased payment facilities' in the regulatory framework. The CFR report also said that regulation of SVFs should be graduated and commensurate with risks to consumers, with the recommendation that large SVFs be regulated by APRA, and others by ASIC.

We believe these recommendations are practical, commercial and align with the recommendations we made to previous Inquiries, as detailed above. We also believe these CFR recommendations strike the right balance in supporting the innovation that is occurring in the marketplace and ensures regulatory risks are addressed.

AFIA recommends that the same approach be taken in relation to other aspects of the regulation of mobile payments and digital wallets. It is important for a nexus to be made with the payments system so that standards and consumer protections are maintained, including AML/CTF requirements, payments regulation, and security, privacy and fraud protection.

However, given that innovation in payments is likely to continue to outpace regulation, and that it is a network industry (meaning collaboration is required between participants to ensure the security and interoperability of the underlying system), we believe that there are also areas where continuing industry self-regulation would be most effective, for instance in relation to recovering mistaken payments, establishing minimum standards of disclosure to consumers and, until the Consumer Data Right is fully implemented, to allow for digital data capture.

RECOMMENDATION 3 – SUPPORT ECONOMIC AND SOCIAL PARTICIPATION ACROSS OUR COMMUNITIES BY ENSURING THERE ARE ADEQUATE CONSUMER PROTECTIONS IN PLACE

Addressing financial exclusion

Digital wallets and mobile payment services can boost financial inclusion, but there is also a risk of financial exclusion. While more than nine out of every ten Australians own a smartphone, there is a small (and likely declining) minority of Australians that do not.⁸ This may include those living in rural and regional Australia, and culturally and linguistically diverse communities. Therefore, we need to consider the support necessary to ensure this group remain connected to the mobile payments system.

Improving financial and digital literacy

Digital wallet and mobile payment services are popular because they are a frictionless method of paying for goods and services and customers do not need to carry a physical wallet. However, this is also a potential risk to those who are less financially literate.⁹ As a financial literacy initiative, our BNPL

⁷ See Council of Financial Regulators 'Regulation of Stored-Value Facilities in Australia: Conclusions of a Review by the CFR' (November 2020)

⁸ [Mobile nation | Deloitte Australia | Deloitte Access Economics report, Technology](#)

⁹ [Digital wallet usage soars in COVID: ANZ \(afz.com\)](#) and [CBA predicts digital wallets set to become the most popular contactless way to pay \(commbank.com.au\)](#)

members have introduced budgeting tools in their payment service offering and they have proven popular with users. Additionally, our other finance members have introduced a variety of budgeting and money management tools to assist their customers better manage their finances.

AFIA recommends that the Inquiry should note these proactive industry initiatives and consider what government support is necessary to ensure all Australians have the financial and digital capacity to participate in our modern economy, including targeted programs through the National Financial Capability Strategy¹⁰, allocating funding to financial and digital capability for SMEs under the Digital Economy Strategy announced in the 2021 Federal Budget, and funding for financial counselling services to help vulnerable Australians.

Ensure adequate consumer protections are in place for vulnerable customers

The greater ease of frictionless nature of mobile payments and digital wallet services also potentially increases the risk these facilities will enable vulnerable Australians' addictive behaviours, for example problem gambling.

As part of AFIA's BNPL Code,¹¹ launched earlier this year, BNPL providers have agreed to take reasonable and appropriate steps to ensure merchants or retail partners that they have a direct relationship with will not provide BNPL products or services for online gambling, retail gambling or gambling at domestic or offshore casinos. We have also encouraged further industry action being supported to limit the use of credit cards for gambling and minimise harm related to problem gambling.¹²

AFIA is concerned that standard Apple terms and conditions require providers to allow transactions anywhere that Apple Pay is accepted – which may include gambling transactions. As part of regulating mobile payments and digital wallet services, we recommend similar consumer protections such as 'turning off' the payments function for certain activities, such as gambling.

Improving telecommunications and mobile payment infrastructure

There is some level of physical risk that comes with the greater reliance on payments through mobile devices especially where all payment methods are contained in one device. Digital adoption has been accelerated by the COVID-19 crisis and we expect the pace of technological change to continue. It will be essential for participation in our modern economy for all Australians to be able to readily access the various technologies, platforms and apps they use.

Therefore, we recommend that as part of the Digital Economy Strategy announced in the the 2021 Federal Budget, consideration be given by state and territory governments to implementing inductive charging zones, which would enable wireless re-charging of mobile devices, e.g. restaurants and cafes, public transport services, and/or other public spaces, such as government transaction centres, libraries, etc.

¹⁰ [National Financial Capability Strategy](#) and [Moneysmart](#)

¹¹ [AFIA Buy Now Pay Later Code of Practice](#)

¹² AFIA letter to the Australian Banking Association (ABA) consultation on the use of credit cards for gambling transactions. 6 March 2020.

CLOSING REMARKS

The economic benefits and contribution to productivity of mobile payments technology, including growth in small businesses, are obviously significant. The mobile device industry contributes \$22.9 billion in value to the economy, including \$14.7 billion of indirect activity across the economy stemming from mobile-enabled in-store transactions and e-commerce purchases through a website, platform or app.¹³

Pre-pandemic, over 55% of small and medium businesses had medium to high levels of digital engagement to drive customer engagement, with this trend accelerated by the COVID-19 pandemic.¹⁴ Payments on mobile devices (for example, purchases on websites and in-app payment options, such as PayPal) or made by mobile devices (for example, tap-and-go payment options) now comprise the majority of all payments, replacing cash and physical credit cards by Australians. Mobile payments are also the most important channel for retailers.

Mobile technology has also allowed providers (such as, card issuers and BNPL providers) to provide seamless payment experiences to customers at the point of purchase. In addition, mobile card readers, such as those offered by Square and the Commonwealth Bank's Albert, have also played a significant part in providing Australians access to more innovative and integrated payment options as well as enabling small businesses to receive upfront payments and improve their business practices through use of data to make more informed pricing, product and sales decisions.

Customers, small businesses and retailers now expect this seamless, frictionless payment experience. Given that research indicates that consumers are more likely to change their provider than to change the brand of their mobile device and that there is significant competition and innovation in the payments ecosystem with different providers and business models, it means that providers that do not or are not able to access a wallet facility are at a competitive disadvantage. This puts further pressure on providers to enter into agreements with mobile device manufacturers, which raises issues regarding barriers to entry as well as commercial and consumer protection risks.

AFIA and our members believe that all financial services providers should support their customers by offering the best products, services, and technologies. A continued focus on improving efficiency, competition, and innovation within the payments ecosystem will support Australia's economic recovery and drive better outcomes for customers, small businesses and retailers.

We welcome the opportunity to discuss our submission with the Inquiry, including to appear before the Inquiry at any hearings that the Inquiry may convene.

¹³ [Mobile Nation 2019 \(deloitte.com\)](#)

¹⁴ [Small businesses digital trends: accelerating digital engagement | Deloitte Australia | Media Release](#)

Yours sincerely

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