

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Inquiry into Mobile Payment and Digital Wallet Financial Services

2021 - 2022

**Division:** Market Conduct Division  
**Topic:** Apple NFC access  
**Reference:** Spoken p.44 (27 July 2021)  
**Senator:** Deborah O'Neill

**Question:**

Mr Pearl: I'll turn to now, but I just want to say something very briefly about 2017, because that decision unpacked, I think, some of the concerns on both sides of the equation, including the ACCC's concern that if Apple were forced to depart from its established business model, which is to only use Apple Pay and limit access to its near-field communications, it would have a distorting effect on the competition between Apple and Google, or android. But the other point the ACCC made was that, if individual banks created their own wallets, it could affect the ability of customers to shift from bank to bank. While Apple's insisting on the sole use of the Apple Pay facility does raise potential competition concerns, I don't think there's a dispute about that. It at least provides a competitive playing field from big banks to small banks to start-ups. The ACCC expressed concern about that, too.

Yes, that was 2017. Now we're here, and I do think that the landscape has changed significantly. The ACCC, as you know, was given broad terms of reference by the government in 2019 to conduct a five-year inquiry into digital platforms, but, as the ACCC may have mentioned earlier this afternoon, those terms of reference exclude payment facilitation and payment services.

Senator O'NEILL: Could you explain to me how that could be the case. The government takes advice from the Treasury. Did you provide advice about what the directions were? Who provided that advice to government?

Mr Pearl: I'd have to take that on notice, because I wasn't around at the time. But it's a legitimate question to ask, and I'm happy to take it on notice.

Senator O'NEILL: Thank you. I appreciate that. Could anybody there give me an idea as to why, knowing what they know, with all the resources of all of the departments to advise government in 2020, they carved looking at NFC chips out of the review. Does anybody have an idea about why that would have happened?

Ms Bird: No, not from ASIC's point of view.

Senator O'NEILL: Nothing from APRA? Nothing from Treasury?

Mr Pearl: As I said before, I'll have to take it on notice. It was a long time before I got involved in this area.

**Answer:**

The Treasurer issued a direction to the Australian Competition and Consumer Commission (ACCC) on 10 February 2020 under section 95H(1) of the *Competition and Consumer Act 2010* to hold an inquiry into markets for the supply of digital platform services. The inquiry is due to be completed by 31 March 2025.

The direction specifies the digital platform services into which the ACCC is to inquire. The list of services was developed in close consultation with the ACCC and includes services identified as warranting further scrutiny following the ACCC's 2019 Digital Platforms Inquiry. The services listed in the direction are:

- a) internet search engine services;
- b) social media services;
- c) online private messaging services (including text messaging; audio messaging and visual messaging);
- d) digital content aggregation platform services;
- e) media referral services provided in the course of providing one or more of the services mentioned in paragraphs (a) to (d); and
- f) electronic marketplace services.