



RESERVE BANK OF AUSTRALIA

65 Martin Place  
Sydney NSW 2000

GPO Box 3947  
Sydney NSW 2001

T: +61 2 9551 8700  
F: +61 2 9551 8024

[www.rba.gov.au](http://www.rba.gov.au)

20 August 2015

Daniel McDonald  
Productivity Commission  
GPO Box 1428  
Canberra ACT 2601

Dear Mr McDonald

**Draft Report on Business Set-up, Transfer and Closure**

Thank you for the opportunity to comment on the Commission's Draft Report on Business Set-up, Transfer and Closure. The Reserve Bank has some comments in relation to the payments system-related material in the Report.

***Purchased payment facilities***

The Draft Report's recommendations in relation to purchased payment facilities (PPFs) echo those in the Final Report of the Financial System Inquiry (FSI). The Bank was fully consulted during the FSI process and supports reform to clarify and simplify the framework.

***Access issues in the taxi industry (and the associated Information Request)***

The discussion supporting Draft Recommendation 9.2 and the associated Information Request suggest a view that the current division of responsibilities between the Bank and the Australian Competition and Consumer Commission (ACCC) does not work effectively because the Bank takes a 'watchful' approach to designating payment systems (as was the intent of the legislation giving the Bank its payments system powers) and has not designated and set an access regime for Cabcharge. As you may be aware, Cabcharge has very recently given a court-enforceable undertaking to the ACCC that it will allow other payment processors to process Cabcharge cards on their payment terminals. Cabcharge has undertaken for a period of five years to negotiate with competing processors in good faith on access terms, and provide technical support to them if required. This appears to address the need for an access regime and suggests that the Commission's concerns on this issue may not be warranted.

We note also a number of state regulators have taken action on taxi payment surcharges directly. This would seem to be an appropriate approach given the state-based nature of taxi regulations and the fact that taxi regulation covers a broad set of interrelated policy issues, including payments-related ones.

As regards the issue raised in the Information Request (whether the powers of the Payments System Board (PSB) relating to access and competition issues in payment systems would more appropriately be placed with the ACCC), the Bank notes that the FSI reviewed the regulatory framework (that was put in place following the recommendations of the Wallis Inquiry). The FSI endorsed the actions the PSB has taken to improve competition and efficiency in the Australian payments system and did not suggest any significant change to the existing arrangements.

The Commission's Information Request in part appears to reflect a concern that there is no formal mechanism under the Payment Systems (Regulation) Act for a party to seek action by the Reserve Bank. We believe this concern is unfounded. The Reserve Bank liaises extensively with stakeholders and welcomes input from any party wishing to raise an issue in relation to the payments system, including concerns about the behaviour of other parties. The Bank takes all such approaches seriously and forms a judgement about the case for regulatory action based on all relevant available information, including the activities of other regulators.

Finally, the draft report notes the recent establishment of the Payment Systems Regulator (PSR) in the United Kingdom. While the PSR is not within the central bank, it reflects a model quite close to Australia's PSB and could be seen as an endorsement of Australia's framework. The fact that the Bank of England and the Prudential Regulation Authority have veto over the PSR's decisions highlights the need for the central bank to be involved in payments regulation. An important part of the PSB's role is to balance the objectives of promoting efficiency and competition in the payments system with its responsibilities to minimise risk and promote stability in the Australian financial system. Given the complexity of the payments system, regulation of this area requires specialist knowledge of the payments system, and it was the judgment of the Wallis Inquiry that this should be done by the Reserve Bank, given its central role in the payments system. This approach is supplemented with a Memorandum of Understanding and ongoing dialogue between the Bank and the ACCC, and the two organisations have worked together on important issues in the past, most notably on the Joint Study which formed the basis for many of the Bank's reforms to card payment systems.

If you wish to discuss these comments further, please contact David Emery

Yours faithfully

Tony Richards  
Head of Payments Policy  
Payments Policy Department