

28 June 2021

Dr Tony Richards
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
Sydney NSW 2001

By email: pysubmissions@rba.gov.au

Dear Dr Richards

Submission in Response to Review of Retail Payments Regulation: Consultation Paper

Tyro Payments Limited (**Tyro**) appreciates the opportunity to provide a submission in response to the Reserve Bank of Australia's (**Bank**) *Review of Retail Payments: Consultation Paper* as released on 28 May 2021 (**Consultation Paper**).

This submission should follow on from and is supplementary to Tyro's February 2020 submission (**Original Submission**) in relation to the Bank's respective Issues Paper.

Least Cost Routing

Tyro remains a strong advocate of least-cost routing (**LCR**) in both offline and online environments, as it enables merchants to defray the expense involved in a consumer choosing a more expensive card type. We therefore support the Bank's proposals to incentivise dual-network debit cards (**DNDCs**) over single-network debit cards (**SNDCs**), to prohibit 'tying conduct' by schemes and for setting expectations with payments providers regarding offering and promoting least-cost routing. However, we believe the proposal leaves gaps for payment service providers or acquirers to:

- meet the Bank's expectations by 'continuing to issue DNDCs'¹ but simultaneously issue SNDCs;
- offer and promote variations of a true least-cost routing experience in which the merchant must make a trade-off to their detriment in order to receive LCR. For example, where all transactions must be routed via the eftpos scheme or via the international schemes, or where certain pricing constructs result in the merchant not being able to reap the benefit of their decision to adopt LCR; and
- inhibit merchants from receiving their desired LCR experience by exerting their market power unfairly and impeding the merchants' ability to switch providers. This includes tying preferential debt arrangements to the merchant acquiring services

¹ Reserve Bank of Australia, 'Review of Retail Payments Regulation: Consultation Paper', May 2021, p. 2.

or 'loss leader' selling of acquiring services through cross-subsidisation in which 'on us' card processing or interest income presents the opportunity to hide true costs.

Furthermore, whilst reducing the interchange cap on SNDCs to below that of DNDCs may encourage issuers to offer more DNDCs to customers, the consequence of this is that merchants are likely to be levied more for accepting DNDCs. Therefore, merchants could be paying more to use LCR as opposed to accepting SNDCs in which LCR is not applicable. This runs contrary to the principle of LCR which is to reduce merchant fees ultimately.

In light of these matters the Payments System Board (**the Board**) may want to consider:

- regulating or setting stronger expectations on the production, distribution and promotion of DNDCs in order to safeguard the proportion of DNDCs in circulation, thus ensuring the viability of LCR. A suggested way of supervising the effectiveness of this with minimal effort could be to set an explicit floor on the percentage of DNDCs on issue, or in use. This could better meet the Bank's intent of ensuring that: 'cards with dual-network functionality would continue to account for most of the debit cards on issue'²;
- setting explicit guidelines or principles for card-present LCR around minimum expected functionality in order for it to meet the Bank's expectations of what can be defined as LCR. This may include guidance on the dynamism and transaction-size based logic of the routing as well as the ability for all merchants to adopt it without suffering any detrimental consequences;
- further exploring, perhaps alongside the Australian Competition and Consumer Commission (**ACCC**), abuses of market power and tying conduct by horizontally-integrated payments service providers that diminish competition; and
- revisiting the proposed interchange cap disparity between DNDCs and SNDCs to ensure that the effectiveness of LCR is not diminished.

Whilst the Board states that 'competition in the acquiring market should lead to further improvement in LCR functionality and awareness'³, this belief relies on merchants being alert to and comprehending a topic that is inherently complex and a level playing field in which competition is not stymied unfairly by structural impediments.

Competition in Card Acquiring

Further to the remarks in the above Least-Cost Routing section in relation to competition in the acquiring market, Tyro is supportive of the Bank's effort to increase merchant understanding of key concepts in card payments and acquiring services.

Tyro is willing and able to provide the Bank with merchant-level data on payment costs with minimal impact to our compliance costs. Tyro is of the understanding that this data will only be published at an aggregate industry-wide level and not at an individual acquirer level.

² Ibid., p. 13.

³ Ibid., p. 18.

As stated in Tyro's Original Submission, Tyro is supportive of the Bank's exploration with Treasury and the ACCC of the possibility of extending the Consumer Data Right to acquiring services. Not only would this enable the merchant to compare prices more easily but it might also further reduce switching inertia by enhancing the ability to exchange identity documents and other materials required during an application process.

Scheme Fees + Rules

In line with Tyro's Original Submission, Tyro is supportive of the Board's proposals to enhance the transparency of scheme arrangements by collecting and analysing fees and rules. The Board may wish to clarify at what level of granularity it intends to require quarterly data on scheme fee revenue and rebates. The Board may want to consider ensuring that, whilst it may publish findings at an aggregate level, data is received at a line-item level and by service provider, rather than in aggregate. This would increase the Bank's ability to monitor the various types of fees and rebates being offered to various providers and link it to action or inaction by these providers. It would also decrease any ability to obfuscate data. For example, an aggregate scheme fee amount from one bank may involve netting off issuer and acquirer related fees, thus hindering the Board's ability to understand various incentives for issuing versus acquiring. It would also enlighten the Board to the complexity imparted by card schemes on end service providers.

Interchange Fees

Tyro remains an advocate of lower merchant fees yet recognises that payments fees are required to incentivise organisations to build and maintain a strong and secure electronic payments system in Australia. On balance Tyro remains an advocate for further lowering interchange fees as it would lower merchant fees and likely reduce some of the costly industry-wide complexity involved in managing the checks and balances of interchange use and misuse.

Separately, Tyro is supportive of the Board's proposal to require schemes to publish interchange fees on transactions on foreign-issued cards on their websites.

Surcharging

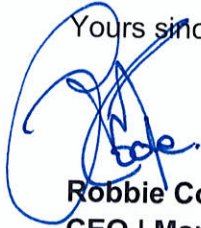
Tyro supports the merchants' right to pass on the cost of payments acceptance to customers and therefore in principle does not support the Board's proposal to continue to allow 'no surcharge' rules to exist in the industry. In effect, the Board's proposed inaction endorses the ability for organisations to dictate that small businesses pay for what is chiefly a consumer and organisational benefit. In most cases the two alternatives that merchants are left with are to either refuse the tender type and risk a loss of business, or to increase prices in wholesale and burden all customers with a cross-subsidisation. A natural and fairer equilibrium would likely be found if surcharging were allowed as it could result in:

- providers lowering their fees;
- consumers paying for the benefit that they are gaining from the service;
- consumers recognising the costs involved in the use of the service via a price signal, and reconsidering their tender type; or

- merchants choosing to pass-on a portion of the levy to consumers if on reflection they are benefiting from the service and do not want that to dissipate.

Tyro would welcome the opportunity to discuss this submission and participate in further consultations if considered of assistance by the Board.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Robbie Cooke". The signature is stylized and somewhat abstract, with a large loop at the beginning.

Robbie Cooke
CEO | Managing Director