



**William Sheedy**  
Global Head of Corporate Strategy and M&A

June 30, 2008

***Via Electronic Mail (pysubmissions@rba.gov.au)***

Ms. Michele Bullock  
Head of Payments Policy Department  
Reserve Bank of Australia  
60 Martin Place  
Sydney NSW 2000

Dear Ms. Bullock:

### **Review of Payment Systems Reforms**

Visa Inc. welcomes the opportunity to provide feedback on the preliminary conclusions of the Payments System Board of the Reserve Bank of Australia (RBA) regarding its report, *Reform Of Australia's Payments System: Preliminary Conclusions of The 2007/08 Review*. Attached, please find two submissions regarding the *Review*. The first responds to the RBA's assessment of the effects of payment regulation. The second document addresses the other policy issues identified in the *Review* and identifies a number of questions regarding ambiguities in the *Review's* discussion of options for future regulatory changes.

While Visa's responses to the RBA's prior consultation documents were provided in the name of Visa International Service Association, after Visa's recent restructuring all of Visa's global operations outside of Europe are now part of Visa Inc. We hope that you find Visa Inc.'s perspective useful.

Visa believes that the evidence demonstrates that the RBA's regulatory interventions have not served the interests of either consumers or competition.<sup>1</sup> Rather, retailers have reaped an enormous artificial economic benefit from the mandated reduction of interchange rates, with – as the *Review* recognizes – no evidence that any reductions in card acceptance costs have been passed on to consumers in the form of lower prices. Many retailers have increased the burden on consumers further by imposing surcharges on the use of payment cards – surcharges that often exceed the retailer's cost of card acceptance – without reducing their prices for cash consumers. Increased consumer costs for payment card usage without offsetting reductions in consumer prices are the clearest signal that the RBA's regulation has not achieved its stated goals. Indeed, as the United States Department of Justice noted in commenting upon proposed legislation

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<sup>1</sup> We provide citations for our factual assertions in the body of the attached submissions.

regulating interchange rates that was recently introduced in the U.S. Congress, such regulation “may actually harm consumers, not benefit them.” The Department of Justice letter continues:

[C]redit card networks forced by regulation to collect less from merchants may well respond by charging more to cardholders in card fees, or reducing card rewards programs and other features that are attractive to consumers. Indeed, a recent GAO Report, *Credit and Debit Cards*, GAO-08-558 (May 2008), suggests this may be what happened in Australia when Visa and Mastercard's interchange rates were capped. The GAO reported that “consumers have experienced a decline in the value of credit card reward points for most cards and an increase in annual and other consumer credit card fees.” GAO Report at 35.

Visa also believes that the RBA has erred in applying its regulations to some, but not all, payment networks. There is no difference between an issuer's ability to receive “interchange” when issuing an American Express or Diners Club product, as compared to a Visa or MasterCard product, and yet these schemes remain unencumbered by the RBA's actions. As a result, the regulated credit card schemes have lost significant issuance decisions to American Express which in time will further impact market share for the unregulated schemes, resulting in greater issuance of cards that are more expensive for retailers to accept than the cards offered by Visa and MasterCard, while offering consumers lesser utility from acceptance and other perspectives. Particularly in light of Visa Inc.'s transformation from a membership association to a public company in which financial institutions have no say in interchange rates or other policies, there is no principled justification for treating American Express, Diners Club, or similar future competitors any differently than Visa.

We believe that the regulation of Visa Inc.'s payment network in Australia has also harmed payments competition by decreasing Visa's ability to shape and deliver issuer and acquirer incentives to invest further in maintaining a world class, innovative payment services industry. As a result of the RBA's regulation, there is less incentive for financial institutions to enter Australia as issuers or acquirers, as well as reduced resources for those already participating to continue to invest valuable and scarce capital in new products, faster processing capabilities, and increased system security. The evidence shows that the RBA's actions have led to a reduction in payments innovation that results in harm to both cardholders and retailers. It is impossible to anticipate precisely how these lower investment levels may forestall the benefits of expanded electronic payments or increase the risks associated with the system.

In summary, it is Visa Inc.'s view that whatever modest benefits are perceived by the “price signaling” that the *Review* mentions – transparency that has failed to work to the benefit of lower-priced payment systems – such benefits are plainly outweighed by harm to consumers and to competition, and risks from lower levels of participant investment, that flow from the RBA's regulation. Moreover, the RBA's goal of reducing interchange rates to a point where users of cash do not “subsidize” credit card users is

based on the erroneous premise that cash has lower costs than scheme credit and debit cards. In fact, the opposite is true; credit and debit cards have a lower societal cost net of benefits than cash. We do not believe that retailer costs of acceptance reflect the full costs to the economy of non-electronic payment forms. Thus, in our view, it is cash and cheque users that are being subsidized, not users of credit and debit cards.

The RBA's preliminary conclusions suggest that the interchange standard (though not the prohibition of no-surcharge rules) might be set aside in certain circumstances, though "close oversight" would in any event still be required. It is unclear to Visa what is meant by "close oversight" and the *Review* does not discuss how this oversight would be conducted by the RBA within the parameters of the *Payment Systems Regulation Act 1998* (or otherwise) and in the context of a publicly listed company with global operations. We believe this is a fundamental omission from the *Review* and seek clarification on this point. Absent clarification, Visa has no way of knowing whether "close oversight" will be better or worse than the status quo.

The RBA also appears to be asking "the industry" to render the local EFTPOS system more competitive. This is a troubling request both from a business perspective and from a competition law point of view. Visa provides retailers, cardholders, and the financial institutions that serve them a more robust payment network, largely due to the investments Visa and its financial institution customers have made in acceptance, processing capabilities, brand marketing, and systems integrity. These investments are funded, in part, by the interchange passing between acquirers and issuers. Given that the RBA has promoted its regulatory interventions as increasing competition, it also seems incongruous to require Visa to work with a yet-to-be-formed EFTPOS organization to enhance the EFTPOS system's standing in the Australian marketplace.

Finally, with no clear metric for success as to what constitutes "sufficient progress," it is unclear what standard the RBA will use when deciding whether to retract or extend its regulation. We believe that the evidence shows that the RBA's actions to date have already suppressed investment and innovation, and that by displacing market competition the payment system regulatory interventions have distorted competition and led to inefficient results. Additional moves against long-standing business practices that were designed to (and do) enhance retailer and cardholder value, and promote effective competition among financial institutions and payment networks, are not justified – and may be dangerous to the health and security of the payment system.

Visa believes that the best course of action – for consumers, retailers, Australian financial institutions, and the Australian economy – would be for the RBA to abandon its attempt to explicitly or implicitly regulate the pricing levels for the efficient, highly competitive, and dynamic retail payments industry.

Despite our disagreement regarding the RBA's actions to date, Visa shares the RBA's commitment to ensuring that Australia has a world-class payment system that responds

to the needs of all stakeholders – consumers, retailers, and financial institutions. To that end, we look forward to discussing this submission with you and Dr. Lowe.

Sincerely,

A handwritten signature in black ink, appearing to read "William Sheedy". The signature is fluid and cursive, with a large, stylized initial "W" and a long, sweeping tail.

William Sheedy