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By email: banking@treasury.gov.au

Christopher Kent
Head of Payments Policy Department
Reserve Bank of Australia

Dear Mr Kent

Reserve Bank of Australia (RBA)-Treasury ATM Taskforce consultations

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to contribute to the RBA-Treasury ATM Taskforce's report on the March 2009 ATM reforms.

The March 2009 reforms can be considered a broad success, both because they have made foreign ATM transaction fees more transparent to consumers and helped many consumers avoid fees, and because they have increased consumer access to ATMs through wider deployment.

However, the reforms have been unable to exert competitive pressure on ATM fees, which was one of the key reasons stated for implementing the reforms, and thus a measure by which they should be judged. In our view, fees are far higher than they should be, and show no sign of reducing without further changes.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

Since September 2009 we have also operated a new service, MoneyHelp, a not-for-profit financial counselling service funded by the Victorian Government to provide free, confidential and independent financial advice to Victorians with changed financial circumstances due to job loss or reduction in working hours, or experiencing mortgage or rental stress as a result of the current economic climate.

Transparency of fees and competitive pressure

The March 2009 reforms have greatly increased the transparency of ATM fees, and on available information have driven significant changes in consumer behaviour and increased the rate of ATM deployment. However, they have still been unsuccessful in exerting competitive pressure on the fees themselves, which are actually rising[1]. In our view, the fact that wholesale interchange fees have been reduced to zero, higher profits are now available to ATM providers, there are new market entrants and there is a demonstrated desire of consumers to avoid fees means fees would be falling if the market for foreign ATM transactions was operating competitively.

Pre-reform, an ATM provider recouped costs of foreign transactions through an interchange fee (typically $1) levied to the cardholder's institution. This fee was passed onto the cardholder by their institution, along with an additional fee (usually another $1)[2]. The RBA notes that one of the key reasons for pursuing the reforms was that this typical interchange fee bore little resemblance to the actual cost of providing an ATM withdrawal but there was little competitive pressure to reduce the fee, both because interchange fees were set in bilateral arrangements and because cardholders had no influence over these fees. Further, institutions were in turn passing these interchange fees on to cardholders as "foreign ATM fees" with another significant mark-up[3]. Thus, one of the primary intentions of the 2009 reforms was to increase competitive pressure on ATM fees. The RBA states:

> In particular, the move to a regime in which ATM owners directly charge cardholders rather than earn revenue through interchange fees will increase competition in the provision of ATM services. With the price of an ATM withdrawal clearly displayed there is an opportunity for the normal forces of competition to come to bear. Where an ATM is charging a fee above the cost of provision in many cases it will be possible for a competitor to put an ATM with a lower fee near the high-fee ATM. These competitive forces would be expected to lower the cost of ATM services below what they would otherwise be. In addition, the access reforms will make it easier for new firms to enter the market, strengthening these competitive forces.[4]

The 2009 reforms, coupled with consumer advocacy at the time, seem to have stopped cardholders' institutions charging any fees for foreign transactions. However, ATM providers have simultaneously increased their fees (now in the form of direct charges rather than interchange fees), meaning cost to the customer (around $2) has remained the same.

This makes little difference for consumers but a great difference for ATM providers - instead of charging $1 to process a foreign transaction, they charge $2 and keep the extra revenue. Assuming ATM transactions cost around 54 cents for major banks to provide[5], margins have jumped over 300% (from around 46 cents to $1.46) per transaction.

Independent ATM providers also appear to be making healthy margins, even if we factor in higher overheads. Given independent providers charge on average $2.15 for foreign

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[1] Flood, D., Hancock, J. and Smith, S. (2011). Accessed from http://www.rba.gov.au, p 46.
[2] Reserve Bank of Australia (2009), *An Access Regime for the ATM System*. Accessed from http://www.rba.gov.au, p 2.
[3] Reserve Bank of Australia and Australian Competition and Consumer Commission (ACCC), *Debit And Credit Card Schemes In Australia: A Study Of Interchange Fees And Access*, October 2000.
[4] RBA (2009) pp 4-5.
[5] Edgar, Dunn & Company (2010) cited in Flood et al 2011, p 48

withdrawals[6], a per-transaction cost of $1.12[7] still leaves 1.03 cents profit per transaction. If providers charge $2.50 (which is common in our experience) the average profit would be $1.32 per transaction.

On these figures, both major banks and independent providers are enjoying profit margins on ATM transactions much higher than providers did pre-reform. If the market for foreign transactions was genuinely competitive, providers would presumably lower their fees in pursuit of more customers and greater overall profit. If costs rose over time we might see fees also rise - indeed, another reason for the reforms was to ensure fees could rise over time to reflect any cost increases.[8] However, the fact that fees are already rising rather than falling suggests that there is little or no competitive pressure on these fees.

The lack of competition seems (at least in part) to be caused by a lack of access to alternatives. Recent data reported by Flood et al found that 10% of consumers cancel the ATM transaction when warned of the cost. Given that the same report goes on to note that 50% of consumers go on to pay the fee (mostly because a cheaper alternative is inaccessible) we dispute the contention of Flood et al that "there is some scope for ATM owners to attract foreign withdrawals by lowering their direct charges"[9]. On the contrary, it suggests to us that there is very little incentive for ATM providers to lower fees.

To the extent that alternatives are available to consumers, one partial solution could be to require ATMs to prominently advertise the cost of transactions on the outside of the machine (in addition to retaining real time warnings on the screen during the transaction). This would make it easier for consumers to shop around for foreign ATMs when a free option is not available, and would increase consumer awareness of which brands offer cheaper than average prices. Much like signs outside petrol stations, prominent signs on ATMs will be noticed by consumers whether they are shopping for an ATM or not, may reward cheaper machines with extra business and thus have some potential to drive down prices of neighbouring machines.

In addition, where consumers are unaware that an ATM fee will be payable, it is likely that signs will be more effective at deterring customers than a warning delivered halfway through the transaction. Behavioural insights suggest that a consumer who has invested their time in progressing the transaction before they are warned of the cost is more likely to proceed than a customer who receives the warning before they make a similar investment[10]. Nonetheless, it is still important to keep real time warnings which allow the consumer to stop the transaction unless the consumer explicitly consents to the fee.

The weakness of this proposal is that it will have little impact in areas which, despite increased rates of deployment, still have few available ATMs.

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[6] Flood et al 2011, p 47.
[7] Edgar, Dunn & Company (2010) cited in Flood et al 2011, p 48
[8] RBA (2009) p 3.
[9] Flood et al (2011) p 45-6.
[10] Endowment bias - see, eg, OECD, *Roundtable On Demand-Side Economics For Consumer Policy: Summary Report*, 20 April 2006.

Findings that the March 2009 reforms increased the rate of ATM deployments[11] seem reasonable, given the increased profits available to providers. This increased availability of ATMs, particularly outside of metropolitan areas, is generally a positive for consumers. However, increased supply and the entry of new providers has failed to lower fees. This is particularly a problem outside of metropolitan areas where consumers are more likely to pay a fee for ATM transactions and fees are typically higher[12].

We accept that it is more expensive to provide ATMs outside of metropolitan areas, and also that independent providers (who are quite possibly leading the expansion in regional, remote and very remote areas) face higher operating costs than financial institutions. However, figures available (discussed above) still suggest that a average profits for rural, remote and independent ATMs are higher even than profits seen by metropolitan ATMs pre-reform. This means that, regardless of higher overheads, ATM fees in regional and remote areas are too high and would be falling if competitive pressure was applied.

While Flood et al find some positives in the statistics that show remote customers will still avoid ATM fees by using EFTPOS cashouts[13], we are not convinced this is a full and effective solution, for the reasons below.

EFTPOS Payments Australia Limited (**EPAL**) recently announced pricing reforms that will begin in October 2011[14]. The EPAL reforms are directed primarily at enabling EFTPOS to compete with scheme credit and debit for payments, not with cash for payments or with ATMs for cash withdrawals. The reforms are therefore designed to make EFTPOS more attractive to card issuers, not cardholders, by providing that the merchant's institution pay an interchange fee to the cardholder's institution for the transaction. This means the reforms will increase costs to merchants for processing EFTPOS transactions and could increase the likelihood that merchants will charge fees for EFTPOS transactions, as they now typically do for credit and scheme debit card transactions. This would discourage its use as an alternative to cash payments.

On the other hand, the EPAL reforms do propose to treat EFTPOS transactions under $15 and cash-out transactions differently, and this could provide a potential boost to the effectiveness of EFTPOS as a competitor to ATMs. For EFTPOS transactions under $15, the reforms are more specifically directed at encouraging EFTPOS to compete with cash for payments, by setting a zero interchange fee. For EFTPOS transactions involving the consumer taking cash out, the interchange fee will actually flow the other way, with the card issuer to pay 15 cents to the merchant's institution, which could encourage some merchants (through their financial institutions) to offer cash out to consumers more readily.

However, the interchange fee is only one (albeit important) component of the overall cost to a merchant of offering EFTPOS transactions to consumers, with network fees and merchant fees charged by the merchant's bank also influential. Perhaps even more importantly, offering cash-out transactions requires a merchant to maintain a significant cash float with associated costs and risks. Many businesses, particularly small to medium businesses, simply cannot or are not

[11] Flood et al 2011: 48
[12] Flood et al (2011), p 44-5, 47
[13] Flood et al (2011), p 45
[14] EFTPOS Payments Australia Limited, 'EPAL announces new EFTPOS interchange fees', *Media Release*, 8 March 2011 Accessed from http://www.eftpospayments.com.au/media.html

inclined to bear these costs and risks, regardless of the existing or upcoming interchange fee arrangements.

In addition, the Australian Financial Counselling and Credit Reform Association (**AFCCRA**) recently found that some stores in remote Indigenous communities were charging fees of up to $5 per $50 withdrawn for EFTPOS cash-outs[15]. Unreasonably high EFTPOS fees such as these will be more difficult to monitor and regulate than ATM fees. Finally, even a reasonably priced EFTPOS service cannot provide balance enquiries - meaning EFTPOS is not a competitor to the full range of ATM services.

In short, access to EFTPOS currently provides something of a competitive alternative to some aspects of ATM transactions, but not all, and going forward it is unlikely to provide a sustainable solution to a lack of competitive ATMs.

Another option may be to encourage financial institutions to deploy multi-provider ATMs outside of metropolitan areas. This will increase availability of fee-free transactions and, in conjunction with signs setting out the cost of foreign transactions, should exert competitive pressure on foreign ATM transaction fees. This proposal would require agreement between financial institutions and ACCC approval (as it would otherwise be considered collusion). However we think the benefits to regional and remote consumers would be significant and it is an option worth considering. A good start would be for the ACCC and the RBA to signal to the banks that applications for authorisation of multi-bank ATM proposals would be encouraged, assuming other elements of the proposal were not anti-competitive.

If these options do not work, more interventionist options may need to be considered, such as price caps on foreign ATM fees or subsidised ATMs providing free services in low income areas. In our view, access to banking services is a social welfare as well as economic efficiency issue and more interventionist, welfare oriented options may be justified if market mechanisms ultimately continue to fail.

Fees on foreign balance enquiries

Improved transparency created by the March 2009 reforms has allowed many consumers to avoid paying foreign ATM fees to make a balance enquiry. For example, according to providers balance enquiries "fell by one-third to one-half" soon after the reforms[16]. More recent data that balance enquiries make up 23% of (fee-free) domestic transactions but only 6% of (fee-attracting) transactions at independent ATMs[17] suggests that transparency of fees encourages most people to avoid fees on balance enquiries.

While enabling consumers to avoid fees is a positive, discouraging people from checking their balance before making a withdrawal (for example, to avoid overdrawing their account) is not, and arguably runs contrary to the Government's broader objectives of improving financial literacy. While we understand that the March 2009 reforms did not introduce foreign fees on balance

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[15] AFCCRA (2010) *ATM Fees in Indigenous Communities*. Accessed from www.afccra.org, p 10.
[16] Filipovski, B. and Flood, D. (Reserve Bank of Australia) (2010), *Reform of the ATM System - One Year On*. Accessed from http://www.rba.gov.au, p 41.
[17] Edgar, Dunn & Company 2010, cited in Flood et al (2011), p 46

enquiries, they have helped to highlight the pre-existing problem: that these fees can discourage and punish financially responsible behaviour.

AFCCRA recently found that consumers in remote Indigenous communities typically lack free access to ATMs and can spend large amounts of money on balance enquiry fees. AFCCRA reported that people can incur a total of $20-40 in balance enquiry fees on the day Centrelink payments are due as they check throughout the day to see if payment has been deposited into their account[18].

A charge of $2 and up to $2.85[19] to check a balance is a significant cost for low income consumers and discourages financially responsible behaviour. We call on ATM providers, and particularly the major banks, to remove fees on foreign ATM balance enquiries.

This will come at a cost to ATM providers, but given hugely increased profit margins on foreign withdrawals (discussed above) we believe both financial institutions and independent ATM providers could make balance enquiries free and absorb any costs. Further, the ATM networks of financial institutions are not funded by direct charges in any event. Flood et al note that 83% of ATM transactions on financial institutions' ATMs are free of direct charges and direct charges for non-bank customers do not cover the costs of maintaining their ATM networks. Instead, their networks are funded through other revenue streams such as account fees[20].

Summary

In summary:

- We recommend that ATM providers be required to place prominent, clear warnings on the outside of their machines telling consumers how much foreign transactions will cost.
- We recommend that the RBA and the ACCC encourage financial institutions to consider submitting proposals for authorisation to deploy multi-bank ATMs in regional and remote areas, or other places where few ATMs are currently deployed.
- We call on ATM providers to encourage rather than punish financially responsible behaviour by making foreign balance enquiries free.

Please contact David Leermakers on 03 9670 5088 or at david@consumeraction.org.au if you have any questions about this submission.

Yours sincerely
CONSUMER ACTION LAW CENTRE

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[18] AFCCRA (2010), p 6
[19] Flood et al (2011), p 47
[20] Edgar, Dunn & Company 2010, cited in Flood et al (2011), p 48