



AUSTRALIAN HOTELS ASSOCIATION

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Mr Colin Neave
Chairman
Commonwealth Consumer Affairs Advisory Council
Via Email: mark.frost@treasury.gov.au

Dear Mr Neave

Thank you for informing me in your letter of 3 June 2013 of the Council's study and survey into credit card surcharges and non-transparent transaction fees. This issue has been of significant concern to AHA members in the months since the Reserve Bank of Australia (RBA) first signalled its intentions to change the Credit Card Surcharging Standards (the Standards).

The AHA is a federally-registered industrial organisation representing more than 5,000 hospitality businesses such as pubs, accommodation hotels, restaurants, nightclubs, casinos and function venues. Members of the AHA are provided with services and advice by branches located in every state and territory plus a Canberra-based National Office.

In the context of the payments system, the AHA's members are merchants who sell final goods and services to end consumers and are required to deal with card schemes and acquirers in the course of doing business. Hotels are also customers in their own right, purchasing wholesale supplies such as food and beverages for re-sale, but the AHA's primary interest is in the impact on hotels as merchants.

The hotel industry generates between \$11 billion and \$14 billion in sales each year, and although the transaction profile of the industry remains largely cash-based, a significant proportion of payments are made using various debit/credit card schemes.

In October 2012 the AHA provided a submission to the RBA's consultation process that expressed concern about increased compliance burdens being placed on its members, particularly small businesses. Small businesses are less capable of implementing complex systems of cost recovery and have little or no bargaining power in relation to card schemes or acquirers when it comes to negotiating merchant fees. The AHA submission argued that the RBA must take an active regulatory and guidance role to prevent small businesses from being unfairly impacted.

The impact on a small business of significant increases in compliance requirements to justify surcharges is most likely going to be the business deciding to forego surcharges – thereby not recovering their costs of card acceptance.

The AHA called on the RBA produce guidelines for merchants and be responsible for enforcing compliance. The result of the RBA process, however, was to allow card schemes to alter their own rules to limit merchant surcharges to “the reasonable cost of card acceptance.”

Since the announcement of this decision in February 2013, the AHA has contacted the RBA in an attempt to seek information to pass on to its members. The RBA instructed us to contact the card schemes directly, as enforcing their own scheme rules is a matter for them.

The AHA has written to each of the four major card schemes in Australia (Visa, MasterCard, American Express and Diners Club) seeking advice on changes being made to scheme rules, so that the AHA could inform its members of any required changes.

To date none of these card schemes have responded to our requests for information.

We note recent media commentary relating to the surcharges levied by airlines Qantas, Virgin Australia and Tiger Airways. Each of these airlines applies a flat surcharge to all bookings, at a percentage of the total sales price that far exceeds surcharges applied in hotels. On 19 March 2013 the *Sydney Morning Herald* reported that across all fare types "the average credit card surcharge percentage for Qantas and Virgin is likely to be between 2.7 per cent and 4.3 per cent." It should be noted that airlines typically levy surcharges on a per-passenger, rather than per-transaction basis.

The fact that none of the airlines has changed its surcharging practices since the changes to the Standards took effect in March this year could highlight an inherent unfairness of the RBA's decision to hand over enforcement responsibility to the card schemes. Our concern is that while large companies with significant volumes of card transactions could be allowed to continue with non-compliant surcharging practices, smaller businesses could be singled out by the more powerful card schemes and forced to justify their cost recovery despite having significantly lower surcharges.

In summary, the AHA is concerned about a potential lack of fairness and equality that could arise from allowing the credit card schemes to be solely responsible for enforcement of the Standards. In our view, the RBA must be an active regulator of the payments system and be involved in setting guidelines and benchmarks for acceptable conduct by merchants, acquirers and card schemes.

The AHA is pleased to expand on these comments if required. We look forward to the outcome of this process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Des Crowe', with a stylized flourish at the end.

Des Crowe
National Chief Executive Officer
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