



Payments industry chief attacks 'light-touch' approach to regulation

By Nathan Lynch, head regulatory analyst, Australia & New Zealand

A senior figure in the payments industry has described the Reserve Bank's light-touch approach to regulation as an "abject failure" and said that the banks and card schemes had systematically refused to deliver on their promises to self-regulate. Jost Stollmann, the chief executive of payments platform provider Tyro Payments, said that the RBA needed to return to the approach of setting more prescriptive regulation for the sector and dispense with its self-described role as a reluctant regulator.

Stollmann was speaking in the wake of the RBA's consultation on card surcharge fees, which the regulator concedes have become uncompetitive following its decision to remove the card schemes' ban on retailer surcharging.

In an interview with Thomson Reuters, Stollmann said the RBA had clearly positioned itself as a "reluctant regulator" that would prefer the industry to find its own solutions to the issues of price, disclosure and innovation in payments. He said that light-touch regulation had clearly been a failed experiment as the major banks and card schemes had repeatedly failed to deliver on their promises to the RBA. He said the National Australia Bank's recent decision to abandon the Mambo payment platform was a case in point and demonstrated that institutions would always put their own interests above those of the broader industry.

"The regulator is far too trusting of the industry. Since Ian Macfarlane left the new theory is 'let the industry prove that it can take care of itself'. It's calling itself the reluctant regulator. So we've now had quite a few years where nothing has advanced," Stollmann said.

The Tyro chief said the industry had demonstrated that it would pay lip service to the RBA's concerns and then continue to do little to meet its regulatory objectives.

"They were supposed to do more low-value real-time settlement, but nothing has happened. They were supposed to introduce the Mambo online payment solution but that hasn't gone anywhere and NAB has just canned it. You can go on and on with examples but nothing has happened. So I'm personally of the opinion that we should go back to Ian Macfarlane's approach where the regulator calls the shots so that the big four banks, in particular, have to pay attention," he said.

Taking off the gloves

Stollmann's comments were echoed in the RBA's latest consultation on card surcharge fees, where numerous respondents complained about the Bank's failure to regulate the industry adequately. Craig Macbride, who lodged an email submission with the regulator, said that the RBA had handled its statutory role as payments regulator with "gross incompetence and total lack of foresight".

Another respondent, Peter Mair complained that the RBA had "allowed banks, and their card scheme associates, to bask for far too long in the predictable consequences of a far too-benign regulatory regime."

"If the RBA was genuinely concerned to promote fairness and efficiency in the provision and pricing of retail transaction facilities it would be more determined, and not at all reluctant, to follow through on two regulatory steps it sometimes alludes to as desirable but, in the event, always falters and does not," he submitted.

Mair said the first regulatory response should be to ban interchange fees for all card transactions "as it once promised to do" and to force banks to recover the costs of card transactions directly from customers using cards.

"Second, the plain absence of any practical respect shown by the RBA for the proper user-pays pricing of retail payment facilities makes a mockery of its recurrent pious recanting of the importance of a properly functioning price system for retail payments as well as everything else. The RBA has stood silent for decades while the inefficient and unfair tax-free bartering of interest free deposits for free banking services has undermined the proper functioning of the retail payments system to say nothing of precluding anything like a competitive environment in retail banking more generally," Mair noted.

Regulatory response

The RBA declined to comment on the criticisms that had been expressed in the consultation over its "light touch" approach to regulation of payments. A spokeswoman said the regulator would review the submissions in coming weeks and then release a paper outlining its regulatory responses.

Malcolm Edey, assistant governor of the RBA, said earlier in the consultation that the RBA was a "reluctant regulator" in this area and would much prefer to see the industry participants grasping the nettle to avoid a return to prescriptive regulation.

"The Bank has taken the view that, where price signals are distorted for some reason, there is a case for using its regulatory powers to correct them," Edey said.

"As a regulator, we recognise that our approach to these questions has to be quite different from the way we approach other cases for regulatory involvement. The RBA has significant powers, as you know, to designate payments systems and to set standards. But we're well aware that you can't regulate innovation into being. That's not the intention. As far as possible we'll be aiming to work with industry, looking at whether there are areas where more coordination is needed, and assisting with that where we usefully can."

According to Stollmann, however, the payments industry holds out little hope that a workable solution will be reached any time soon under the RBA's "hands off" regulatory strategy.

"It's an illusion in the Australian setting that the industry will self-regulate and become competitive and innovative. All of the major advances have come about as a result of regulatory initiatives," he said.

"The RBA hasn't always been an ineffective regulator. They created the access regime, they capped the interchange fee, they introduced the surcharging. So they made some good progress in the past but now they have become too reluctant to continue that progress. They really have to take back control."