

ALDI wins EFTPOS Federal court action « eCommerce Report

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German owned supermarket retailer, ALDI, has won its Federal Court action against EFTPOS scheme manager – EFTPOS Payments Australia Limited (ePAL). But the win seems unlikely to advantage ALDI in any way, with ePAL’s new wholesale interchange fee scheme set to begin unaffected as from 1 October 2011. As we reported last week, ALDI’s action saw the Court ordering ePAL chief executive Bruce Mansfield to refrain from claiming that consumers are unlikely to see any price rises because of the changes.

The court is understood to have heard that Westpac and its St George subsidiary have already written to their merchant customers foreshadowing a \$10 per month increase in EFTPOS facility charges as a result of the ePAL changes. (Of the other big banks, the Commonwealth has been reported as deciding not to increase its fees to merchants, whilst the NAB and the ANZ may not yet have made a

decision.)

As with any other cost increase, Retailers may, of course, choose not to pass on the bank fee increases to their customers.

But that is unlikely.

And the Court’s Justice Jacobsen made it clear that, in his view, ePAL’s public statements had been misleading.

Indeed it seems that Justice Jacobsen has called on Mansfield and ePAL to publish “corrective advertising”.

According to one media report of the learned Justice’s judgment, he specified that the corrective advertisements be published in at least one major national newspaper as well as one paper in each of Australia’s seven states and territories.

He even provided a form of words for ePAL to use.

However beyond the satisfaction of winning the case, and at no charge (with ePAL ordered to pay all ALDI’s costs) there has to be some question over just what ALDI gained by its action.

The Court didn’t order cheaper fees for ALDI, and nor were they sought.

Speculation that ALDI’s action was partly encouraged by its acquirer – Tyro Payments – remains entirely unconfirmed just that as this story was being written.

However it makes some sense that ALDI would use Tyro. ALDI is, after all, a German company and Tyro is run and partly-owned by Jost Stollmann, a man who in a former life was a senior German politician.

Tyro may well suffer the most of all the financial institutions involved in EFTPOS debit card processing, as its entire business is focussed on card-acquiring.

If, because of the new ePAL fees, Tyro now has to pay a fee to the bank issuer for each debit-card transaction it processes, the price Tyro charges customers like ALDI to provide the eftpos acquiring service will have to rise.

Industry sources suggest, however, that the ePAL fee structure will not be applied uniformly across all banks from 1st October.

Some, like the NAB and ABZ, may even choose not to adjust their fees until next year.

For more information go to:

www.eftpospayments.com.au

www.eftposaustralia.com.au/

www.tyro.com

www.zdnet.com.au/epal-told-to-come-clean-on-efpos-fees-339323321.htm

www.bankingday.com

<https://www.comcourts.gov.au/file/Federal/P/NSD1531/2011/actions>