

31 October 2023

Sally Etherington
Director
Payments System and Strategy Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: paymentsconsultation@treasury.gov.au

Dear Director,

Consultation Paper – Reforms to the Payment Systems (Regulation) Act 1998 (Act) – Exposure draft legislation

Coles Group Limited (**Coles**) welcomes the opportunity to respond to the Reforms to the *Payments Systems (Regulation) Act 1998* – Exposure draft legislation and draft explanatory materials, consultation dated October 2023.

Coles is largely supportive of the proposed changes to the Act, however we believe there may be benefit to industry by including further clarification in the explanatory materials to assist in understanding how the new law is intended to operate on the below topics.

Three Party or Closed Loop systems

Coles acknowledges the amendments to the definition of 'payment system' to cover a broader set of arrangements and activities. We also note the intention to encompass 'three party' or 'closed loop' systems and considers the American Express and Diners Club to be relevant and useful examples to industry.

References to 'three party' and 'closed loop' systems in paragraph 1.15 of the draft Explanatory Memorandum does however have the potential for a broader interpretation, such as in relation to certain loyalty schemes and gift card programs that are non-cash payment facilities currently operating under exemptions.

As noted in the Payments System Modernisation (Licensing: Defining Payment Functions) consultation paper dated June 2023, it does not appear to be Treasury's intention to include these products and to move the existing relief, such as RBA's Declaration No. 1, into primary legislation. Coles therefore considers it to be advantageous to include express statements in the Explanatory Memorandum that exclude certain loyalty schemes and 'three party' or 'closed loop' gift card programs from the scope of the Act changes.

Definition of participant - Digital Wallets

Coles considers the inclusion of the 'digital wallet' example to be relevant and useful to industry in relation to the updated definition of participant. We do however question if there is an inconsistency between the inclusion of "where such entities provide services to existing payment systems (such as Visa or Mastercard schemes)" in paragraph 1.22 to the intentions that are outlined in paragraphs 1.20 and 1.21 of the Explanatory Materials where a direct relationship with the payment system is not required. It would be helpful if Treasury could consider this potential

inconsistency.

Conclusion

Should you have any queries on the above response, Coles welcomes further engagement with Treasury and a meeting to discuss.

Yours sincerely,

DocuSigned by:

Paul Askew

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