

ACCC INQUIRY INTO FOREIGN CURRENCY CONVERSION SERVICES

05 October 2018 | Australia

Legal Briefings - By **Annabel Garrard** and **Annalisa Heger**

In an announcement demonstrating a continued regulatory focus on the financial services industry, the Treasurer has issued a notice to the Australian Competition and Consumer Commission (**ACCC**) to commence an inquiry into foreign currency conversion services. The inquiry represents new work for the ACCC's Financial Services Unit which is currently undertaking the Residential Mortgage Price inquiry. It also follows investigations and regulatory actions by the UK Financial Conduct Authority (**FCA**) into the conduct of UK providers of similar services.

SCOPE OF ACCC INQUIRY

The ACCC's inquiry will focus on the nature and extent of price competition for the purchase of foreign cash and the transfer or remittance of money overseas. The ACCC will also consider other ways foreign currency transactions are performed, such as via credit, debit, or pre-paid travel cards.

Matters the ACCC has identified as those to be taken into consideration by the inquiry include:

- the pricing of and costs associated with supplying foreign currency conversion services;
- the nature and extent of competition between existing suppliers of the services;

- the existence and extent of any barriers to entry and/or expansion; and
- whether there are factors limiting the ability of consumers to effectively compare services and prices.

The announcement of the inquiry follows the Productivity Commission's *Inquiry into Competition in the Australian Financial System*. The final Productivity Commission report issued in June recommended the ACCC investigate the transparency of foreign transaction fees levied by authorised payment providers and consider how disclosure methods could be used to improve consumer understanding and comparison of fees for foreign transactions. The World Bank also released a report in June 2018 which determined that Australia was the third most expensive G20 country for consumers to send money from.

In announcing the inquiry, the ACCC Chairman, Rod Sims, foreshadowed that the way prices are presented to customers as well as the mark-up consumers pay when converting currencies will be a key focus of the inquiry, stating:

"The exchange rate you google is not the exchange rate you get from the big four banks... we will be examining why major companies in Australia, including the big four banks, seem to be able to consistently charge high prices"

INQUIRY TIMELINE AND PROCEDURE

The Issues Paper published by the ACCC seeks feedback on the scope and objectives of the inquiry with submissions invited from industry participants, including consumers, small businesses and service providers until 22 October 2018. The ACCC may consider this feedback to inform the questions it believes necessary to address in the inquiry.

The final report is expected to be provided to the Treasurer by 31 May 2019.

During this time, the ACCC is also expected to contact industry participants directly to obtain specific information. The ACCC has statutory powers to compel the production of documents and information it considers relevant to its inquiry. The ACCC also has power to compel witnesses to attend hearings and give evidence on oath.

LESSONS FROM OVERSEAS

The UK FCA has recently taken regulatory action in this space in response to concerns that firms providing currency conversion services could be misleading consumers and small businesses.

In 2016, the FCA published an open letter to remind firms of their regulatory and legal obligations. The letter responded to concerns that some firms were using the interbank rate in currency converter tools, websites and other promotional or marketing material in a misleading way, so as to give consumers the impression that superior rates based on the interbank rate were available to them. The FCA also reminded firms that any claims that consumers could achieve better rates using their services rather than those of competitors must not be misleading. Following the 2016 open letter, the FCA took supervisory / enforcement action against a number of firms whose promotions the FCA considered to be potentially misleading as a result of their use of the interbank rate in online currency conversion tools and marketing materials.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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