

# THE NEW PAYMENTS PLATFORM AND THE FUTURE OF PAYMENTS

09 February 2018 | Australia

Legal Briefings - By **Julian Lincoln, Tony Coburn and Mandy Milner**

---

Participants in the financial services industry have long faced disruption from technological developments, including an endless supply of new fintech players who challenge and seek to remake the existing landscape, with the aim of providing simplicity and instantaneous ‘all-in-one’ digital functionality for consumers.

One of the most notable fintech developments in recent times is the imminent launch of the New Payments Platform (**NPP**). The NPP is the infrastructure for a new ‘low-value’ payments system in Australia, developed by various industry players to address a set of strategic objectives of the RBA.<sup>1</sup> Expected to be a world-leading payments platform, the key features of the NPP are to:

- facilitate the **real-time** settlement of transactions, along with the real-time transfer of transaction data, allowing for 24/7 instantaneous payments between banks;
- enable **unique identifiers** to be assigned to an account (e.g. a phone number or ABN) as an alternative to a BSB and account number;
- allow for **data rich** information to accompany transactions, removing the current 18-character limit and replacing it with greater built in capabilities; and
- provide opportunity for **future innovation** through the development of ‘overlay services’ on top of the core NPP infrastructure, including data services that track and reconcile payments directly from bank accounts to financial statements of payer and payee (in the B2B and C2B payment environments).

Both the base NPP offering, and the foundation that it lays for future innovation, have the potential to revolutionise financial services and payments in Australia.

## **WHAT IMPACT IS THE NPP LIKELY TO HAVE?**

The features of the NPP will enable key modern consumer needs to be met. First, by streamlining and simplifying the process for making low-value payments, the NPP can meet the modern consumer's need for instantaneity and the provision of *on demand* products (note that in the case of certain high-value business transactions, real-time gross settlement is already available). Further, consumer reliance on mobile and digital payments, and the corresponding shift away from traditional payment methods such as cash and cheques, will continue to increase with the support of a variety of overlay service and instant payment offerings.

Important for any new technological development introduced into our fast-paced society, the NPP provides a platform for innovation. Third parties can build on top of the core technological infrastructure of the NPP to develop new products, all of which can be offered through a single platform. In essence, this 'future-proofs' the NPP offering by providing infrastructure which is able to adapt to new technological developments and evolve to meet future consumer needs.

Alongside this innovation opportunity, the NPP is likely to give rise to an increase in competition in the financial services industry, both amongst established players and new entrants. This is because:

- the NPP's open access infrastructure will remove an existing technical barrier to entering the market to compete with incumbents;
- the opportunity to develop overlay services provides a market for new products which can be developed and/or offered by anyone - from financial institutions, to financial advisors, to technology and fintech companies and beyond; and
- the decreased reliance on BSB and account numbers may reduce bank loyalty and encourage greater bank portability.

Businesses now have a prime opportunity to increase their competitive edge by exploiting the innovation potential that the NPP offers - and this opportunity is not limited to those currently operating in the financial services industry. Businesses more generally should consider how the NPP can be relied on to improve their business, which may be through:

- offering a greater range of payment options for their customers (e.g. a bill splitting payment option);
- adopting overlay services to offer new products to customers. The potential overlay service offering (which is likened to the apps on an iPhone) means that businesses can introduce a range of technological services through a single platform, which will inevitably be easier and cheaper than if this were to be procured from separate suppliers, each with different infrastructure;
- reducing administrative time and cost – for example, through the reduction in cash transactions or by receiving payments with corresponding invoices attached or easily cross-referenced from data embedded in, or otherwise connected to, a payment;
- improving cash flow, as money is not tied up in the deferred net settlement process;
- selecting a payment identity, such as a mobile number or email address, for supply chain and customers that is linked to today’s applicable BSB and account number for receipt of payments (but introducing the potential for easy switch to another bank without disrupting the payments flow because another bank account can be switched to the customer’s payments identity);
- being involved in opportunities to develop, or collaborating with others to develop, overlay services which are targeted at the business’s industry or customers; and
- engaging in opportunities to extract value from the data sets that will accompany transactions (including customers’ spending habits or payment recovery trends), both on an aggregated, de-identified basis, as well as information which is individual- or business-specific, to the extent permitted by privacy laws. Initially, it will be the financial institutions that will benefit from the valuable and sophisticated data accompanying transactions, which can be interrogated and analysed for their own purposes (including for more intelligent and informed credit analysis or industry trend analysis), as well as for customers’ benefit (including through the development of targeted and innovative solutions). However, over time, we will no doubt see other players gaining access to this information in order to maximise the value of financial data. In an age where data is king, and intelligence about customers is key to a business’s success, businesses should be looking for opportunities to gain access to the wealth of data which will be created by, or accessible through, the NPP and use this information to develop appropriately targeted, marketed and useable products for their customers. With open banking on the horizon,<sup>2</sup> there is potential for bank statements exposed by one bank (on request of a customer) to be of even greater benefit to the recipient.

Following this, consumers too will benefit from the greater flexibility in payment offerings, an abundance of well-targeted, tailored and personalised digital products and (hopefully) an ultimate reduction in the cost of doing business.

Yet, in the context of an increased competitive landscape, businesses need to ensure they do not get left behind. The NPP may have the effect that existing technologies are rendered obsolete in light of real-time payments (e.g. consider escrow technology) or may be replaced by equivalent NPP-compatible technologies where existing systems cannot interface with the NPP to tap into the real-time settlement functionality.

## **KEY LEGAL AND PRACTICAL CONSIDERATIONS**

Together with any changing landscape, the integration of the NPP into our financial services industry gives rise to a number of key legal and practical considerations.

Importantly, the sheer volume and nature of the information that will accompany transactions and which may be created in the future by the NPP functionality gives rise to heightened privacy and security risks. Financial institutions will maintain databases of information creating a digital transaction record which extends far beyond that currently maintained, and overlay services have the potential to build on this even further. It is not, at this stage, clear which other actors will gain access to this wealth of information. The particularly sensitive nature of this information also makes it vulnerable to hacking. It is therefore critical that appropriate security measures are put in place to prevent any unauthorised access to, or disclosure of, this information.

In addition, any use and disclosure of information collected through the NPP will need to be in accordance with privacy laws. Financial institutions, others in the payment settlement chain and overlay service providers who gain access to this information will need to consider the basis on which the information can be used or disclosed (including whether information needs to first be de-identified) and ensure appropriate privacy notices and consents are in place in respect of any new types of information collected, any new uses of this information (including any direct marketing activities) and any new recipients of information (including any overlay service providers).

An additional consideration in the context of the NPP is fraud management. A new mechanism for managing fraud will be critical as the instantaneous nature of real-time payments removes the 'buffer' time that is currently built into the delayed settlement process. Financial institutions will need to ensure that appropriate measures are implemented to detect and respond to fraud in real-time, and this may lead to new methods of identity verification, such as through fingerprints or other biometrics, which are less susceptible to theft. Closely related to the management of fraud, the qualities of the NPP will provide new possibilities for banks to carry out ongoing customer due diligence and improve transaction monitoring for the purposes of managing legal obligations that relate to the risks of money laundering and terrorism financing.

Inevitably, it is probable that the regulatory environment will respond to the changed landscape through the introduction of new standards, such as technical and data security standards, as well as banking regulations to govern this new environment.

Ultimately, the financial services landscape in Australia is changing at a rapid pace and the looming New Payments Platform will be a key driver of change with the potential to revolutionise payments in Australia. Consumers stand to benefit from greater simplicity, flexibility and instantaneity in payments, as well as a proliferation of product offerings which are tailored and suited to their needs. Equally, the NPP arms businesses with an opportunity to evolve and expand their products, compete in new areas and better understand their customer. But amongst all this change, one thing is certain: innovation will be fundamental to success.

## ENDNOTES

1. Reserve Bank of Australia, 'Conclusions of the Strategic Review of Innovation in the Payments System', 2012.
2. See the exposure draft of the [National Consumer Credit Protection Amendment \(Mandatory Comprehensive Credit Reporting\) Bill 2018 \(Cth\)](#) and associated [Explanatory 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.



**JULIAN LINCOLN**  
PARTNER, HEAD OF  
TMT & DIGITAL  
AUSTRALIA,  
MELBOURNE  
+61 3 9288 1694  
Julian.Lincoln@hsf.com



**TONY COBURN**  
CONSULTANT,  
SYDNEY  
+61 2 9322 4976  
Tony.Coburn@hsf.com

# LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2021

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE**

Close

© HERBERT SMITH FREEHILLS LLP 2021