SENATE ECONOMICS COMMITTEE INQUIRY INTO COMPETITION IN THE AUSTRALIAN BANKING SYSTEM

TREASURY APPEARANCE AT 9 MARCH 2011 HEARINGS
QUESTIONS ON NOTICE

1. PAYMENT SYSTEM

QUESTION

Senator HURLEY—... Speaking of clearing houses, we had the payment section talk to us about the payment system—the idea of making payments transfer easier so that you can get competitors in the market. It seems that the payments transfer between banks is quite clumsy at this stage, even though they are saying that they are trying to improve it. Is there any way to speed up what is happening there?

Mr Murphy—Payment systems are largely under the supervision of the Payments System Board.

Senator HURLEY—As I said, we did have the Reserve Bank in.

Mr Murphy—They have sought to get greater competition into that. I would have to take that on notice and think about it. Treasury is not a member of the Payments System Board. The governor and senior people from APRA, plus senior people from the private sector, have been appointed, and they have taken a number of measures over the last few years to try to get competition.

ANSWER

The RBA Payments System Board is currently undertaking a strategic review of innovation in the payment system to identify areas in which innovation may be improved through enhanced cooperation between stakeholders and regulators. The review will identify potential gaps in payment system services, and ways in which such gaps can be addressed. The RBA is also implementing changes to the payment system that could facilitate faster settlement of low-value payments in the future.

2. PRICE SIGNALLING

QUESTION

Senator XENOPHON—Mr Murphy, if can we go back to the issue of price signalling, has Treasury looked at what is in force in other parts of the world to deal with price signalling and the effectiveness of those legislative regimes?

Mr Murphy— Yes. One of the drivers—and we can get you more detail on this—is that, as I mentioned, in the US and Europe and the UK, there are provisions which are targeted at facilitating practices. It seems that there is a gap in the law in Australia where you are seeking to ensure that arrangements or understandings or agreements between competitors are restricted in what can happen there, and facilitating practices is just a further extension. We looked at this when we issued a discussion paper back in January 2009 on the meaning of the word 'understanding'. That was one way we were seeking to extend what we thought was a gap in the law. Public submissions on that led us to take the position that that was not the best policy approach. What started off as facilitating practices has turned into price signalling, which is what it is about?

Senator XENOPHON—If you could take it on notice and send the material, that would be quite useful.

Mr Murphy—All right.

ANSWER

Most comparable jurisdictions, including the United Kingdom, United States and the European Union have laws which are capable of dealing with anti-competitive price signaling and information disclosures (sometimes called 'concerted practices' or 'facilitating practices').

In the United States, Section 1 of the *Sherman Act 1890* prohibits a 'contract, combination…or conspiracy' that unreasonably restrains trade. According to the United States' submission to the 2010 OECD Roundtable on Information Exchanges, unilateral attempts by a competitor to exchange sensitive information with rivals, even if unreciprocated, can trigger antitrust enforcement.

In the European Union, Article 101(1) prohibits agreements where the object or effect of which is to restrict competition. An anti-competitive information disclosure can be pursued under Article 101(1) if it establishes a concerted practice. According to the European Union's submission to the 2010 OECD Roundtable on Information Exchanges, where a business discloses strategic information to its competitors, and the competitor does nothing, this can constitute a concerted practice.

In the United Kingdom, Section 2 of the *Competition Act 1988* prohibits agreements between firms or concerted practices which affect trade within the United Kingdom and which have the object or effect of preventing, restricting or distorting competition.

The Treasury understands that there have been a number of successful actions in these jurisdictions in relation to anti-competitive price signaling and anti-competitive information disclosures.

3. ATM TRANSACTIONS

QUESTION

Senator HURLEY— …. I would like to move on to the ATM fees. You provided an answer to a question on notice from Senator Xenophon, so I may be stealing his thunder a bit here, about ATM fees and the difference between those who are withdrawing and simply getting access to their account balance. You say: 'The majority of ATM transactions do not incur a direct charge, but it is often the same for withdrawal and balance inquiries. Nonetheless, in around 30 per cent of cases, the balance inquiry charge is lower than the withdrawal charge.' Is that 30 per cent of transactions where a charge does occur or 30 per cent of transactions?

Mr Lonsdale—Our understanding is that most transactions—about two-thirds—currently happening through ATMs do not attract a charge, and that is because they are done at the person's home ATM. But around 30 per cent are done at foreign ATMs and will attract a charge.

Senator HURLEY—But you cannot get information about how many are balance queries or how many are withdrawals?

Mr Lonsdale—We could check that, Senator.

ANSWER

The March 2011 RBA Bulletin – *ATM Reforms*: *New Evidence from Survey and Market Data* – notes that data from Edgar, Dunn & Company (2010) indicate that in Australia balance inquiries make up around 23 per cent of transactions at ATMs owned by financial institutions and 6 per cent of transactions owned by independent ATM providers. This reflects the fact that most transactions at ATMs owned by financial institutions are made by customers of that institution and therefore do not incur a direct charge, while almost all transaction at independently owned ATMS incur a direct charge.