



**Commonwealth  
Bank**

**Submission to the Parliamentary Joint Committee on  
Corporations and Financial Services inquiry into  
Mobile payment and digital wallet financial services.**

21 May 2021

Public



CBA welcomes the opportunity to provide input to the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into mobile payments and digital wallet financial services (**Inquiry**). The Inquiry is a timely response to the growing popularity of mobile payment solutions. Mobile devices and digital wallets have increasingly become an essential means by which CBA's customers transact and this trend is expected to continue. Given the recent acceleration in adoption of these services, it is important to ensure that consumers are guaranteed choice, safety and security when making payments using mobile digital wallets.

Policy and regulatory settings should ensure consumer protection and guard against market distortions that could adversely impact competition, innovation or the stability of the financial system. The *ACCC Digital Platform Services Inquiry 2020-2025* has reported on the dominant position of Apple and Google in digital markets, and these findings will be particularly informative to the Committee's assessment of the commercial relationships and business models of providers of mobile payment digital wallet services. As noted recently by Reserve Bank Governor Philip Lowe, big tech platforms are increasingly incorporating payments functionality into their service offerings, which, while providing new services and convenience, are raising new and complex competition and consumer protection issues.<sup>1</sup>

## Digital wallets

A 'digital wallet' is an application (app) on a mobile device such as a smartphone handset, smart watch or tablet that stores a customer's credit or debit card information. Digital wallets allow customers to make contactless and card-less transactions in store by 'tapping' their mobile device on or near a payment terminal using near field communication (NFC) technology. Digital wallets have the ability to incorporate a range of additional functions such as loyalty and reward point programs. Increasingly digital wallets are also used to make in-app and mobile payments. Consumers value the ease and convenience of making payments with digital wallets and businesses similarly benefit from the reduced fraud risk, and lower online transaction abandonment rates.

The mobile operating system (OS) is the interface between the mobile device hardware (such as the smartphone handset, smart watch or tablet) and the apps that run on the device, such as digital wallets. The mobile OS is pre-installed on mobile devices and cannot be altered. Google's Android and Apple's iOS are the two main mobile operating systems. Combined, they run on more than 99% of all smartphones in the world.<sup>2</sup> Apple's mobile devices run on Apple's proprietary iOS operating system, while other leading handset manufacturers, such as Samsung, LG, and Motorola, run on Android.

Mobile devices act as hubs for Australian consumers to access a range of products and services. Digital platforms integrate software and hardware with apps to form an 'ecosystem' of interoperable products and services. Customers and third-party service providers such as traditional payment service providers interact within this ecosystem. In general, the owner of the mobile ecosystem has significant control over the nature of products and services that third parties can offer to consumers and the way that those products and services are delivered.

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<sup>1</sup> <https://www.rba.gov.au/speeches/2020/pdf/sp-gov-2020-12-07.pdf>

<sup>2</sup> [https://judiciary.house.gov/uploadedfiles/competition\\_in\\_digital\\_markets.pdf?utm\\_campaign=4493-519](https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519)

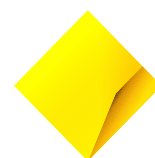


Figure 1 below illustrates the Apple's mobile device eco-system.

Figure 1: Apple's mobile device eco-system<sup>3</sup>

Digital wallet usage and trends in Australia



Customers are increasingly relying on their mobile devices to make payments, both in stores and online. RBA data shows that in 2019 around 40% of online payments were initiated via mobile apps. The use of mobile devices to make contactless payments by tapping or waving a smartphone or other payment-enabled mobile device (e.g. watch, ring or other 'wearable') in front of a card terminal, rather than using a physical card increased from 1% in 2016 to 8% in 2019.<sup>4</sup>

<sup>3</sup> US House Judiciary Committee, *Investigation of Competition in Digital Markets Report*, October 2020, at p 333 (US House Judiciary Committee Report). Available online at <https://judiciary.house.gov/issues/issue/?IssueID=14921>.

<sup>4</sup> Reserve Bank of Australia, *Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey*, June 2020 (RBA CPS 2020). The RBA notes that these trends are likely to have further increased since the CPS was conducted in late 2019 because of changes in behaviour associated with COVID-19 by both consumers and merchants.

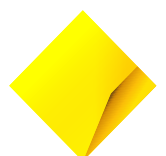
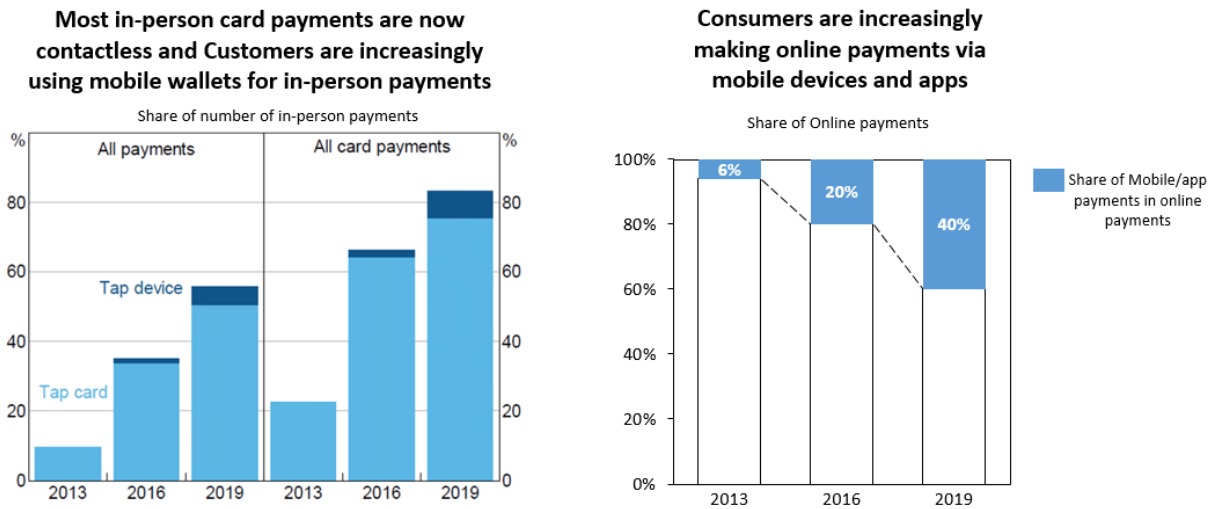


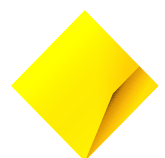
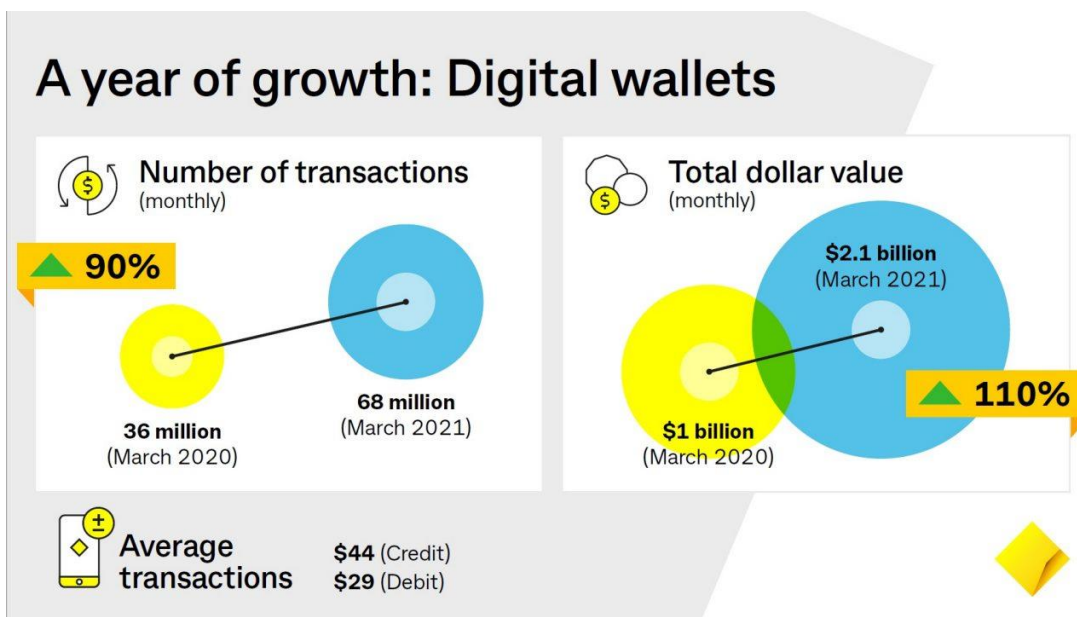
Figure 2: Mobile device payments in Australia



Source: RBA's survey *Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey*, RBA calculations based on data from Colmar Brunton, Ipsos and Roy Morgan Research

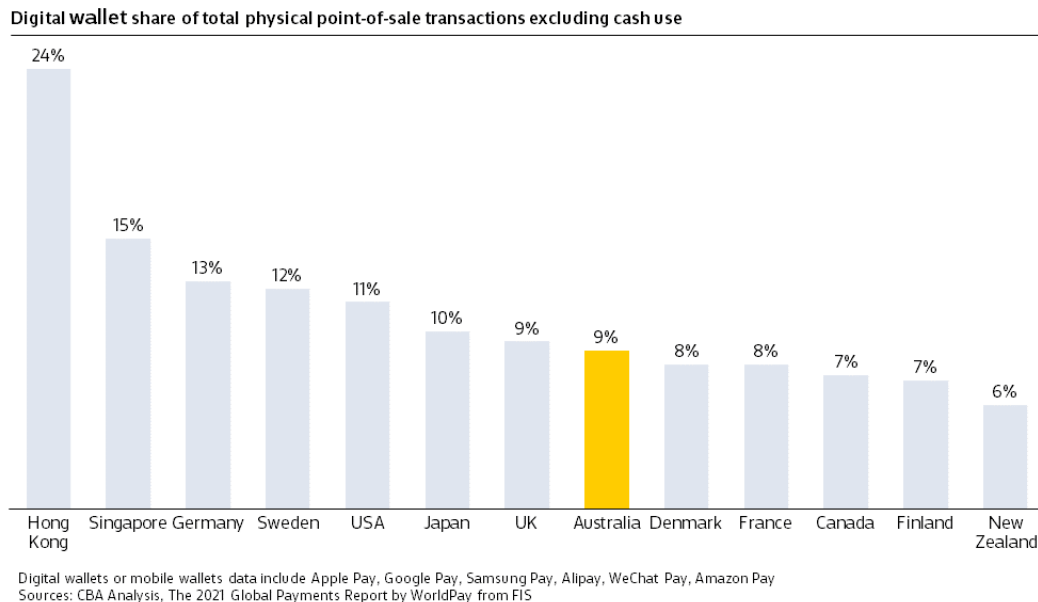
CBA's experience is consistent with the RBA's findings in relation to the rapid acceleration in digital wallet payments. In recent years there has been an increased demand for digital payment solutions amongst CBA customers. Between March 2020 and March 2021, the number of monthly digital wallet transactions increased 90 per cent, with the number of transactions rising from 36 million to 68 million. Over the same period, the total dollar value of digital wallet transactions more than doubled, with the value of monthly transactions rising to \$2.1 billion, up from \$1 billion. Based on the current trends it is likely that digital wallets will be the most popular contactless way to pay by the end of the year.

Figure 3: CBA Digital Wallet Usage



Australia has one of the highest penetration rates and fastest adoption rates of new payments technologies, including digital wallets and tap-and-go. Data shows that the Australian mobile payment market is a fast-growing market that is important for the Australian economy, as it accounted for 25% of the Australian e-commerce market, with a value of \$8.3 billion in 2018.<sup>5</sup> The data also suggests that the Australian mobile commerce market is expected to reach a value of \$16.6 billion in 2021, due to increased adoption of contactless mobile payment solutions by Australian consumers especially in light of the COVID-19 pandemic.<sup>6</sup>

**Figure 4: International comparison of digital wallet use at point of sale**



### Mobile payments in Australia

Digital wallets in Australia include CBA tap-and-pay, Google Pay, Samsung Pay, Apple Pay, Fitbit Pay, and Garmin Pay. Apple and Google are effectively the only two mobile operating systems in Australia, holding about 50% share each.<sup>7</sup>

Apple Pay has been leading digital wallet adoption in Australia. Apple’s significant market share in mobile devices (over 54% in March 2021 in Australia<sup>8</sup>), together with a high share of CBA customers’ digital wallet transaction volumes, make it a ‘must have’ service and gateway for any customer facing organisation, including financial institutions, to access over half of the Australian consumers using mobile devices.

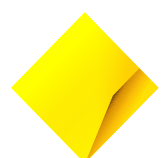
### Commercial relationships and business models

<sup>5</sup> J.P. Morgan, *E-commerce Payments Trends: Australia, 2019*. Available online at <https://www.jpmorgan.com/europe/merchant-services/insights/reports/australia#infographic-text-version-uniqId1618410227980>.

<sup>6</sup> J.P. Morgan, *E-commerce Payments Trends: Australia, 2019*.

<sup>7</sup> <https://www.accc.gov.au/system/files/Digital%20platform%20services%20inquiry%20-%20March%202021%20interim%20report.pdf>

<sup>8</sup> Statcounter, *Mobile Vendor Market Share Australia, March 2020 - March 2021, as at 22 April 2021*. Available online at <https://gs.statcounter.com/vendor-market-share/mobile/australia>



Digital platforms that own and control the mobile OS dictate the terms and extent of competition for distributing software on to mobile devices running their respective mobile operating systems. Mobile device manufacturers therefore act as a gatekeeper over a key channel of distribution of a range of products and services, including essential financial services such as payments. As customers tend to stay with the same mobile OS, and typically have a single mobile device, digital platforms have sole control and therefore a substantial degree of power over the markets within their ecosystem, enabling them to dictate the fees, contract terms and conditions of the Australian businesses that rely on them.

Digital platforms therefore have the ability to make deliberate design choices as to how their ecosystem will be accessed. With respect to digital wallets, a key functionality to enable digital wallets is the NFC capability on mobile devices. Digital platforms may choose to operate as an open eco-system or a closed eco-system for access to NFC capability. Android allows third-parties to build products that have direct access to NFC functionality on enabled devices for consumers to make ‘tap-and-go’ payments using a range of digital wallets. In contrast, Apple has a ‘closed’ NFC architecture on its mobile devices that prevents any digital wallet apps other than Apple’s own digital wallet Apple Pay from using the NFC capability to make contactless payments. This means all direct ‘tap and go’ payments must occur via the Apple Wallet in accordance with the Apple Pay terms and conditions.

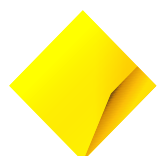
The table below illustrates broadly the main mobile device eco-system approaches in Australia, and the payment innovations and services that have become available on each. As is evident from the table below, there are significantly greater choices to customers and local operators available using the Android platform.

**Table 1: Comparison of mobile device ecosystems**

	<b>Apple mobile device eco-system</b>	<b>Android mobile device eco-system</b>
<b>Device manufacturer</b>	Apple	Samsung, Google, LG, HTC, Motorola, Huawei
<b>Operating System</b>	Apple iOS	Android
<b>App Stores</b>	Apple App Store	Google Play, Samsung Galaxy Store
<b>NFC write access for Point of Sale (PoS) payments</b>	Closed: Apple Pay only	Open
<b>App Store in-app terms and conditions</b>	Closed: Apple Pay only <sup>9</sup>	Open
<b>Digital payment innovations</b>	Apple Pay	Google Pay, Samsung Pay, CommBank Tap & Pay, NAB Pay, Garmin Pay, Fitbit Pay, Alipay, Vipps

## Competition and innovation

<sup>9</sup> See Apple App Store policy at para 3.1.1: <https://developer.apple.com/app-store/review/guidelines/#business>.



There are implications for innovation and competition when a mobile device operator occupies a gatekeeper role and at the same time competes with businesses that rely on access to their mobile ecosystems, as is frequently the case with digital wallets<sup>10</sup>. The *ACCC Interim Report No. 2 of the Digital Platforms Services inquiry on app marketplaces* noted Apple and Google both hold this dual position by controlling access to their respective app marketplaces.

Fair, reasonable and open access to mobile device ecosystems will be critical for digital payment innovation. As noted in the CBA submission in response to the *Digital Platform Services Inquiry – March 2021 report on app marketplaces*, payment innovation today is increasingly focussed on app innovations on the mobile phone and how consumers can interface with merchants online and offline in a simple and streamlined way through a single device. Digital wallets located on mobile phones are an important part of these innovations. Therefore the public policy and regulatory framework should ensure that terms and conditions imposed by device operators do not impede innovation by either fintechs or traditional payments service providers.

Given the importance of the mobile phone ecosystem to commerce and payments in Australia, it is vital to ensure that such ecosystems operate on a basis of competitive neutrality that allows for, and facilitates, fair and open competition across the entire ecosystem. Regulation should prevent the development of monopolies or market dominance by a small number of players and ensure interoperability across mobile wallet ecosystems so that consumers can benefit from greater choice and innovation.

## Regulation of digital wallet services

The payments system in Australia is regulated through a combination of financial services regulation and industry self-regulation. Digital wallet services are currently subject to inconsistent regulatory treatment, with some providers operating outside of the existing formal and self-regulatory frameworks that govern the payments system in Australia. Given the link between the payments system and financial stability, it is important for these regulatory gaps to be addressed. In addition to the competition concerns outlined above, regulators will need to consider:

### Consumer protection

Consumers and businesses have the right to expect similar protections for similar services. As many Australians have started making higher value purchases via their digital wallets it will be increasingly important to ensure consistent protections and avenues for recourse when things go wrong.<sup>11</sup> Similarly, it is important that digital wallet operators do not impose restrictions or requirements on participants in their ecosystems that restricts or prevents financial institutions from meeting their consumer protection obligations under industry codes or other regulations.

### Operational resilience

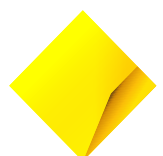
Greater scrutiny of the operational resilience of mobile device operators may also be required. End-to-end operational and financial resilience across payment chains is critical for the smooth functioning of the economy.<sup>12</sup> The security, stability and resilience of the Australian payments

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<sup>10</sup> The gatekeepers of the iOS and Android mobile ecosystems offer their own digital wallets in competition with other app developers and financial services providers

<sup>11</sup> With the average dollar value of a digital wallet transaction increasing from \$41 to \$44 (credit) and \$26 to \$29 (debit) over the past 12 months <https://www.commbank.com.au/articles/newsroom/2021/05/digital-wallets-contactless-soar.html>.

<sup>12</sup> <https://www.bankofengland.co.uk/-/media/boe/files/financial-policy-summary-and-record/2019/october-2019.pdf>



infrastructure to date is largely due to the underlying financial regulation that governs traditional payment providers such as banks. As Australians become increasingly reliant on mobile ecosystems for the provision of financial services and to run their businesses, the reliability and resilience of mobile payment infrastructure will become a critical concern.<sup>13</sup>

#### Payments system efficiency and financial stability

The impact to the overall cost efficiency of the payments system from the pricing practices of newer digital wallet providers is not clearly understood. There is very little transparency to gauge the gap between the cost and the price of the service or the extent to which payment providers pass these fees onto their customers. The pricing and fee structures of digital wallet providers should face the same scrutiny that is applied to other payments services to enable the Reserve Bank of Australia to fulfil its responsibilities to promote the efficiency of the payments system and ensure the overall stability of the financial system.<sup>14</sup>

A number of separate reviews are currently underway to ensure Australia's regulatory framework adequately addresses these and other risks arising from new technologies and participants in the payments system. These include the ASIC ePayments Code review, RBA Review of Retail Payments Regulation and the Treasury Review of Australian Payments System, all of which will be finalised in 2021. CBA welcomes these reviews as a mechanism to ensure that the Australian payments system remains fit for purpose in light of considerable growth and innovation. It is of paramount importance that these separate reviews are coordinated in an effort to ensure a consistent approach to uplifting the payments system to support fair access, competitive neutrality, safety and security, and continued innovation.

#### **Mobile payments regulatory and enforcement measures adopted overseas**

Internationally, competition regulators are investigating competition and consumer issues arising from the role of digital platforms and mobile device manufacturers in the provision of digital payment solutions. Further, some countries have adopted legislative measures to address barriers that inhibit mobile payment service provider's access to mobile device users. Examples of these enforcement and regulatory measures include:

- The European Competition Commission's competition law investigation into Apple's conduct in the mobile payments market.<sup>15</sup>
- The proposed European Digital Markets Act, which seeks to set rules for large digital platforms that are deemed to be 'gatekeepers' and intermediaries between businesses and digital platform users, to ensure a fair and level playfield in the provision of digital platform services and products.<sup>16</sup>
- In the United Kingdom, the Digital Markets Taskforce recently recommended the adoption of a legally binding code of conduct, amongst other measures, to regulate digital platforms with a 'strategic market status' (SMS).<sup>17</sup> The purpose of the Code includes preventing SMS firms

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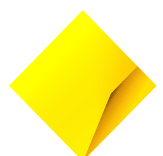
<sup>13</sup> <https://www.bis.org/fsi/fsipapers17.pdf>

<sup>14</sup> <https://www.rba.gov.au/payments-and-infrastructure/role-of-payments-system-board/>

<sup>15</sup> EU Competition Commission, *Antitrust: Commission opens investigation into Apple practices regarding Apple Pay*, 16 June 2020. Available online at [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1075](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1075).

<sup>16</sup> EU Commission, *The Digital Markets Act: ensuring fair and open digital markets*, 15 December 2020. Available online at [https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets\\_en#what-are-the-benefits-of-the-digital-markets-act](https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets_en#what-are-the-benefits-of-the-digital-markets-act).

<sup>17</sup> The Digital Markets Taskforce's advice is available online at <https://www.gov.uk/cma-cases/digital-markets-taskforce>.





from taking advantage of their powerful positions and setting rules for how SMS firms do business with users and third party firms.<sup>18</sup>

- The German parliament recently passed the Anti-Money Laundering Directive and section 58a of the German Payment Services Supervision Act (effective 1 January 2020), which require providers of technical infrastructure that is essential for provision of payment services (such as the NFC chip in mobile devices) to give access to that infrastructure to other payment service providers.<sup>19</sup>
- In 2020, Japan passed a law on the Improvement of Transparency and Fairness in Trading on Specified Digital Platforms (effective 1 February 2021), which seeks to regulate digital platforms and ensure a fair and level playing field in online platform transactions.<sup>20</sup>

## Conclusion

The financial services industry in Australia is evolving with new entrants, both small and large, offering a range of innovative products and services such as mobile payments. The right policy and regulatory settings will be needed to create a level playing field that drives innovation and competition without compromising the integrity of Australia's financial system. This can be achieved through increased co-operation and co-ordination between Government, regulators and the private sector to ensure that Australian consumers can safely benefit from the convenience of new technologies and services.

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<sup>18</sup> See Appendix C of the Digital Markets Taskforce advice. Available online at <https://www.gov.uk/cma-cases/digital-markets-taskforce>.

<sup>19</sup> Bird & Bird, New German legislation allows access to the iPhone's NFC antenna, February 2020. Available online at <https://www.twobirds.com/en/news/articles/2020/germany/new-german-legislation-allows-access-to-the-iphones-nfc-antenna>.

<sup>20</sup> O'Melveny & Myers LLP, *New Regulation of Digital Platforms in Japan*, 1 April 2021. Available online at <https://www.lexology.com/library/detail.aspx?g=29fdf784-8655-4554-a239-f8de72653c6d>.

