

7 July 2023

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 Payments Systems (Regulation) Act 1998, June 2023

Coles Group Limited (**Coles**) welcomes the opportunity to respond to the Reforms to the *Payments Systems (Regulation) Act 1998*, consultation paper dated June 2023 (the **Paper**). Coles is a national retailer, providing food and drinks; and promotes financial services to approximately 20 million customers on average each week through our store network and online platform. Coles also operates as an acquirer with our own payments switch to process customer card transactions including for a number of non-Coles retailers such as Kmart Australia Limited, Target Australia Pty Ltd and Officeworks Ltd, along with the recently sold Coles Express fuel and convenience business to and for Viva Energy Group Limited. We hold direct scheme memberships, however Coles relies on a third-party bank to access the RBA settlement accounts as part of our acquiring service.

Given the unique nature of our business, we have sought to provide our comments in the context of Coles as an acquirer, whilst leveraging our experience as a retailer. In this role, we are a regular participant in industry groups and forums, such as the Australian Payments Network and the Australian Retailers Association while also being a shareholder in Australian Payments Plus.

Coles believes that as the Australian payments ecosystem continues to evolve, Treasury and the RBA play critical roles in ensuring an even playing field. This is not only for the benefit of consumers and competition, but also to drive certainty, innovation, and investment into the ecosystem for the benefit of the nation. As such, Coles is generally supportive of this Paper, however we do have feedback in some areas.

Definition of 'national interest'

Coles is largely supportive of the formulation of new 'national interest' powers. However, we believe further work is required to clarify how and when a 'national interest' test might be applied versus the 'public interest' test. We believe that details on the reasons for a designation, where possible, should be made available to the public.

We also welcome further clarification on the process that will be followed to determine an outcome when the Treasurer is required to assess whether the national interest test might or should be applied. We believe it is important to ensure appropriate consultation with participants and regulators when time permits, and as such we support the inclusion of an express requirement to consult.

RBA powers and definition changes

Conceptually, Coles supports the recommendations being proposed and believe it is important that the RBA have appropriate enforcement powers that are in line with the objectives the *Payment Systems (Regulation) Act 1998 (PSRA)* is aiming to achieve. We will wait to review the drafted legislation to provide further feedback as needed.

Clarify the connection between this Paper and the 'Payments System Modernisation (Licensing: Defining Payment Functions)', consultation paper, June 2023

Whilst Coles is largely supportive of the positions outlined in this Paper, we welcome Treasury's detailed guidance on how these changes will interact with the new licensing regime, dealt with in a separate consultation paper. Given the broad reach of the proposed changes to the PSRA, it is not clear if all participants effected by the PSRA will also require a license and if not, how the regulatory reach will apply. We identify this as a potential gap given Treasury's view that not all participants will be required to be regulated and if so, how would this change the approach for the PSRA.

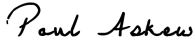
More graduated penalty regime

Whilst Coles is supportive of a graduated civil penalty regime (consistent with penalty regimes in other legislation, such as the *Competition and Consumer Act 2010*) and the acceptance of court-enforceable undertakings, we would request more detail to be provided as to how this is intended to operate.

Conclusion

Coles welcomes further engagement with Treasury as you continue industry consultation on the draft changes to the legislation and should you have any queries on the above response, we would welcome a meeting to discuss.

Yours sincerely,

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Paul Askew

General Manager, Financial Services