

19th February 2021

Competition & Consumer Policy Team
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

By email to: competition.policy@mbie.govt.nz

Re Issues paper: Regulating to reduce Merchant Service Fees (December 2020)

Thorn Group Financial Services Limited (Thorn) appreciates the opportunity to provide this submission to the Ministry of Business, Innovation and Employment (MBIE) in response to the issues paper on regulating to reduce Merchant Service Fees and to contribute to future reform in this area.

Thorn has operated in the New Zealand market for 55+ years, providing finance across all market segments (prime, near-prime and non-prime) under the dtb and Thorn Finance brands. Our suite of lending products includes personal lending, vehicle lending and point of sale financing through our own and other retail channels. Whilst Thorn does not currently charge Merchant Service Fees on any of its products, we may well consider doing so in the future. Hence future reform in this space may influence our future product innovation and development decisions.

Thorn is a member of the Financial Services Federation (FSF), a Registered Financial Services Provider (RFS), a member of an Approved Dispute Resolution (ADR) Scheme operated by Financial Services Complaints Limited (FSCL), and a Qualifying Financial Entity (QFE) licensed by the Financial Markets Authority (FMA).

It should be noted that Thorn generally supports the submission of the Financial Services Federation on the same, and as a member has played a constructive role in the creation of that submission. Our viewpoint on this matter however warrants a separate submission and this is outlined below.

In general, Thorn supports the efforts of MBIE to regulate Merchant Service Fees to support small New Zealand businesses. We also support the consultation approach undertaken to date and intent to issue an options paper at a later stage for further consultation.

We do however believe that there is a significant gap in the regulatory governance of the retail payments system, as it relates to Merchant Service Fees charged by Buy Now Pay Later (BNPL) providers.

The significant increase in the popularity of online shopping has seen a material increase in the use of BNPL products. Because of this popularity, and following the global pandemic especially, many retailers feel increasing pressure to offer these products which often have higher merchant fees than some credit or debit card services.

These fees can be as high as 6-7%, and the prevailing business model prevents retailers from disclosing or passing these fees onto consumers in the form of a surcharge, as is the case with credit card Merchant Service Fees. A power imbalance due to the popularity of these products has allowed BNPL providers to contractually deny retailers the right to pass on these fees. This has resulted in a situation whereby the true cost of these products (marketed as 'interest free'), are not transparent to the consumer. That lack

of transparency results in an absence of competitive pricing tension, and higher costs for all consumers overall.

In our view such contractual restrictions should be abolished, and retailers should be able to pass on these Merchant Service Fees as a surcharge, just as they are able to in the case of credit cards so as both payment methods are treated consistently in market.

It should also be noted that overseas markets have moved to regulate BNPL products in line with other financial services products. The Reserve Bank of Australia has initiated its review of the 'no surcharge' rule on BNPL products and a decision is expected later this year. In addition, the UK have also decided to regulate lending requirements for their BNPL products. Looking to overseas jurisdictions should encourage us to consider the impacts of BNPL products in New Zealand more thoroughly and to review their associated Merchant Service Fees.

Thorn has previously commented on the exclusion of BNPL propositions from CCCFA obligations and discussed this same issue with MBIE directly. We would welcome an opportunity to extend our discussions with MBIE on this matter also.

Thank you again for the opportunity to provide Thorn's perspective on this matter. Should you require any clarification or wish to discuss any aspect further, please feel free to contact me on [REDACTED] or [REDACTED]

Regards



Mark Spring
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Thorn Group Financial Services Limited