



Level 24  
1 York Street  
Sydney, NSW 2000  
paypal.com

4 April 2019

Review of ePayments Code  
Australian Securities and Investments Commission (ASIC)  
Level 5, 100 Market Street  
Sydney NSW 2000

By email: [ePaymentsCode@asic.gov.au](mailto:ePaymentsCode@asic.gov.au)

Dear Sir/Madam,

### PayPal Australia Submission to the Review of the ePayments Code: Scope of the Review

PayPal Australia Pty Ltd (**PayPal**) welcomes the opportunity to provide feedback on the topics that ASIC proposes to consider, as part of the current review of the ePayments Code (**Code**).

#### General Observations

PayPal agrees with ASIC's comments in the Consultation Paper 310 that there have been significant developments in the financial technology space in recent years, with new technologies and customer demands fueling growth and innovation. We expect that the electronic payments landscape will continue to evolve rapidly as technological advancement and new business models will facilitate the offering of diverse services and electronic payments to Australian consumers.

Given the depth of changes in the industry, PayPal is supportive of the review of the Code. Whilst PayPal acknowledges the importance of the Code in the digital age, we believe that the Code must effectively complement other regulatory requirements, while adequately balancing the required protection for consumers, with the compliance obligations of and cost to the subscribers.

As noted in PayPal's previous submissions, the Code should be "forward thinking" and competitively neutral to ensure that it will remain fair, flexible and relevant in the fast-growing payments environment. It is not possible to predict exactly what the future of electronic payments would look like; as such, in addition to ASIC's ongoing effort to regularly monitor the relevance and effectiveness of the Code, a principles-based approach to the review process is our overall recommended solution.

#### Specific Comments

PayPal supports the proposed scope of the review of the Code as outlined in the Consultation Paper, and wishes to raise the following comments in relation to:

- **proposal B5 - mistaken internet payments:** the current process for handling and retrieving a mistaken payment under the Code is relatively complex. PayPal believes that mistaken payment processes should be simplified, flexible and practical, which would help subscribers meet the consumers' growing demands for efficiency, and the overall challenges of the changing digital environment. Accordingly, we believe this should be in scope for review;

- **proposal B5 - New Payments Platform (NPP):** the Code should be updated to better capture the nature of NPP transactions, and address the lack of a scalable dispute process in the event of fraud or mistaken payments. For example, whether a transfer instruction given by a sender can be revoked;
- **additional topic - terms and conditions:** PayPal believes that the requirements for terms and conditions should be in scope of the review. Some of the Code's current requirements around the terms and conditions (that a subscriber must provide to the consumers) are inconsistent with other regulations. Given the majority of the subscribers must comply with other regulations such as the Corporations Act 2001, the Code should effectively complement, and be harmonised and aligned with, other regulatory requirements.

Thank you again for the opportunity to provide PayPal's feedback in this review process. If you require further information with regards to this submission, please contact our Director of Government Relations, Kate Schulze

Yours faithfully,



Neil Matthews  
CEO

PayPal Australia Pty Limited  
Level 24, 1 York Street  
Sydney, NSW 2000