

In February 2011 EPAL (EFTPOS Payments Australia Limited) announced a new multilateral interchange fee regime to replace the existing bilateral arrangements.

EPAL is made up of the banks and Coles and Woolworths. EPAL's reasons for the changes are to get additional moneys for technology upgrade of the EFTPOS network.

For those members of EPAL which opt into the new multilateral interchange fee model, the following fees will apply to the banks involved in an EFTPOS transaction,

- for all purchases of less than \$15 (where no cash is withdrawn) there will be no interchange fee;
- for all purchases of \$15 and over, there is a fee of \$0.05;
- for each cash withdrawal (whether combined with a purchase or not) there will be a fee of \$0.15.

The effect of the new regime is where there is a purchase of \$15 or more, combined with a cash withdrawal there will be a fee of 10 cents. To add to the cost impact fees of 4-5 cents rebate previously paid to the merchant's bank has been abolished.

Normally such agreement between competitors would be subject to ACCC scrutiny but in this case the ACCC has no jurisdiction as the Reserve Bank has the regulatory role. The RBA has been generally supportive of the fee changes. The Federal Government has refused to get involved despite requests from small business.

There was much opposition to the changes from small business especially from the AHA and newsagents associations. ALDI took EPAL to the Federal Court alleging misleading conduct, namely that EPAL had been saying that it is unlikely that consumers would pay any more. The emerging facts were very different. ALDI won on 29 September 2011, and the final decision of the Federal Court can be read [here](#). EPAL will have to place corrective advertisements in a national newspaper and in capital city newspapers and will have to pay ALDI's court costs. The AHA and newsagents association provided non-financial assistance to the ALDI action.

The new fee regime came into effect on 1 October 2011. It is up to individual banks what they do in relation to passing on costs to retailers. As a result of the level of opposition and the ALDI case two of the banks have backed off – CBA has promised not to pass on the increased costs to retailers and NAB will limit the costs to be passed onto small businesses. Members should be advised to speak with their banks about whether these fees will be passed on.