



**STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN
RIGHTS**

**REPORT ON FIJI INTERCHANGE NETWORK (PAYMENTS)
BILL, 2016
(BILL NO. 15 OF 2016)**



**PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 25 of 2016**

February 2017

Published and Printed by the Department of Legislature, Parliament House, SUVA

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LIST OF ACRONYMS

ABIF	-	Association of Banks in Fiji
ANZ	-	Australia and New Zealand Banking Group Limited
ATM	-	Automated Teller Machine
BFS	-	Bhutan Financial Switch
BSP	-	Bank of the South Pacific
CBO	-	Central Bank of Oman
EFTPOS	-	Electronic Funds Transfer at Point of Sale
EFTS	-	Electronic Fund Transfer Switch
FINA	-	Fiji Interchange Network Authority
FTR	-	Financial Transaction Reporting Act of 2004
GCC	-	Gulf Cooperation Council
GhIPSS	-	Ghana Interbank Payment and Settlement Systems Limited
HFC	-	Home Finance Company Limited
ITC	-	Government Information Technology Centre
JLHR	-	Justice, Law and Human Rights
MH	-	Morris Hedstrom
MMA	-	Maldives Monetary Authority
MNO	-	Mobile Network Operator
NFS	-	National Financial Switch
NPCI	-	National Payments Corporation of India
NPS	-	National Payments Switch
RBF	-	Reserve Bank of Fiji
RMA	-	Royal Monetary Authority
TFL	-	Telecom Fiji Limited
TAF	-	Telecommunications Authority of Fiji
VFL	-	Vodafone Fiji Limited

CHAIR'S FOREWORD

Fiji like many other countries world over has over the past few years become increasingly dependent on ATM and EFTPOS machines in day to day transactions and withdrawing of cash. There seems to be a general shift towards “cash-less” transactions whereby consumers rely less on cash and more on plastic cards.

This shift has had many advantages but it has come at a cost to the consumer. The Committee during its public hearings has heard cases where a consumer could be paying between \$1.50 up to \$8.00 in fees while using an ATM card issued by one bank in another bank's ATM or EFTPOS machines.

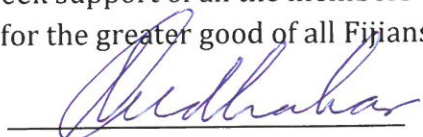
The Fiji Interchange Network (Payments) Bill is a Fijian Government initiative to implement a National Switch in an attempt to make things easier and less expensive for all Fijians. The National Switch is an information technology infrastructure which will interconnect the payment systems of payment service providers.

The Committee while deliberating on the Bill had a look at similar systems which exist in many other countries, eight of which are used as examples in this report. Some of the countries where similar systems are successfully operating are India, Bangladesh, Oman, Ghana, Sri Lanka, Maldives and Bhutan while Mauritius is still in the process of implementing such a system.

The details of the Committees deliberations are contained in this report. The amendments which were necessary have been made and marked in red in the copies of the Bill provided with this report.

At this juncture I would like to thank the Honourable Members of the Justice, Law & Human Rights Committee for their deliberations and input, the alternate members who made themselves available when the substantive members could not attend, the staff and officers of the secretariat, the entities who accepted the invitation of the Committee and made themselves available to make submissions and the members of the public for taking an interest in the proceedings of the Committee and Parliament.

I on behalf of the Committee recommend the Fiji Interchange Network (Payments) Bill to the Parliament and seek support of all the members of this August house for the Bill since it is designed for the greater good of all Fijians.



Hon. Ashneel Sudhakar
CHAIRPERSON, STANDING COMMITTEE ON
JUSTICE, LAW AND HUMAN RIGHTS

1.0 INTRODUCTION

1.1 Background

The Attorney General and Minister for Finance, Public Enterprises, Public Service and Communications of Fiji introduced the Fiji Interchange Network (Payments) Bill 2016 into Parliament. After first reading it was then moved that the Bill be referred to the Standing Committee on Justice, Law and Human Rights, for review.

The Standing Committee on Justice, Law and Human Rights, hereinafter referred to as the Committee, mandated by Standing Orders 109 (2) and 110 of the Standing Orders of Parliament, was referred the Fiji Interchange Network (Payments) Bill, 2016, hereinafter referred to as the Bill, for second reading on 9th of February, 2016. The Committee was tasked with scrutinising the Bill and were to table a report on the Bill in a subsequent Parliament sitting. Various issues were raised by the submitters during public hearings and after the Committee's reading of the Bill and deliberating on it. Appropriate amendments were agreed upon which are reflected in this report.

1.2 Objectives of the Bill

Clause 4 of the Bill clearly states the objectives of the new legislation which are to:

- (a) provide for the implementation of the Network to increase the provision of quality payment services to customers;
- (b) provide for the management, administration, operation, supervision and regulation of systems;
- (c) establish the Authority to regulate the shared payment infrastructure and the interconnection of payment systems through the Network; and
- (d) empower the Authority to develop policies and guidelines to promote the efficiency, stability and safety of the Network.

1.3 Procedure and Program

In order for the Committee to carry out its task, it called for submissions from the public and other interested stakeholders by placing advertisements through the Parliament website (www.parliament.gov.fj) and in the local newspapers (Fiji Times and Fiji Sun) on the 20th and 23rd of February, 2016.

An invitation was also forwarded to the Office of the Solicitor-General for a briefing on various aspects of the Bill. The Committee also wrote to other stakeholders that would be affected by the enactment of the Bill and invited them to present their views at public hearings in Parliament.

The Committee was mindful of the provisions in Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during deliberations and discussions to develop and finalise the Committee's recommendations and report.

1.4 Committee Members

The substantive members of the Standing Committee on Justice, Law and Human Rights at the time of deliberation on the Bill were:

- Hon. Ashneel Sudhakar (MP) (Chairman)
- Hon. Semesa Karavaki (MP) (Deputy Chairman)
- Hon. Lorna Eden (MP) (Member)
- Hon. Iliesa Delana (MP) (Member)
- Hon. Niko Nawaikula (MP) (Member)

During the duration of the term of the Committee in 2016, the following membership replacement and alternate membership arose pursuant to Standing Order 115(2) and (5):

Replacement

- Hon. Mataiasi Niumataiwalu (MP) replaced Hon. Iliesa Delana (MP)

Alternates

- Hon. Balmindar Singh (MP) (Alternate Member for Hon. Iliesa Delana)
- Hon. Alex O'Connor (MP) (Alternate Member for Hon. Lorna Eden)
- Hon. Mikaele Leawere (MP) (Alternate Member for Hon. Niko Nawaikula)
- Hon. Ratu Sela Nanovo (MP) (Alternate Member for Hon. Semesa Karavaki)
- Hon. Josefa Dulakiverata (MP) (Alternate Member for Hon. Semesa Karavaki)
- Hon. Anare Vadei (MP) (Alternate Member for Hon. Niko Nawaikula)

The Committee also had the privilege of being assisted by a former parliamentarian from the Canadian Parliament, The Hon. Sarmite Bulte, PC.

2.0 FIJI INTERCHANGE NETWORK (PAYMENTS) BILL 2016

2.1 Introduction

The implementation of the “National Switch” is an initiative of the Fijian Government.

From the commencement of the new law, all banks in Fiji will be required to provide their payment services through the National Switch as far as interbank automated teller machine (ATM) transactions are concerned. To avoid any doubt, credit card transactions will not be captured by this law. All banks will need to be licensed by the new Fiji Interchange Network Authority (FINA) in order to provide their payment services. It would be an offence under the new law to not connect to the National Switch.

The Bill does not apply to other financial institutions, mobile phone companies, statutory bodies and other payment service providers.

2.2 National Switch

The National Switch is an information technology infrastructure which will interconnect the payment systems of payment service providers. The objectives of the National Switch are to:

- (a) prevent anti-competitive measures amongst payment service providers;
- (b) reduce the costs associated with electronic transactions;
- (c) reduce dependency on cash;
- (d) increase access by customers to financial systems and institutions;
- (e) increase financial inclusion;
- (f) reduce the cost-base for setting up and providing financial services; and
- (g) share infrastructure.

2.3 What is an Interchange Network?

An interchange network (also known as ‘interbank network’, ‘ATM consortium’ or ATM network’) is a network that allows the automated teller machines (ATMs) or electronic funds transfer at point of sale (EFTPOS) machines of different banks to “talk” to each other or connect under one single network.

There is currently no single interbank network in Fiji. Banks' ATM and EFTPOS machines are interconnected on a one-to-one basis. It is similar in nature to the interconnection between different mobile networks such as Vodafone and Digicel. Just as you are able to call a Vodafone number from your Digicel phone, you can also use your ANZ debit card to withdraw cash or check your bank account balance at a BSP ATM. The current impediment for the consumer is the charges associated with interconnection.

In order for the banks' ATMs to interconnect, the banks need to have an agreement on how this will be done and the fees or charges that they will pay each other. Currently in Fiji, banks whose machines are interconnected have bilateral agreements and they charge each other 'interchange fees'. These fees are paid between banks for the acceptance of cards from their respective customers.

Under this legislation, all banks will connect to a single network, rather than separate interbank networks¹.

2.4 Written and oral submissions received

The Committee as part of its deliberation received and heard submissions on the Bill. There was also a briefing by the Office of the Solicitor General on the provisions of the Bill. The briefing enabled the Members to better understand the Bill and it also gave them confidence to respond to questions put forward by members of the public and stakeholders during submissions.

The Committee heard submissions from 1st of March to 21st of April 2016, where a total of 11 relevant organisations were heard from and these were:

1. The Office of the Solicitor General;
2. The Reserve Bank of Fiji (RBF);
3. The Association of Banks in Fiji;
4. Fiji Commerce Commission;
5. Consumer Council of Fiji;
6. Vodafone Fiji;
7. Digicel Fiji;
8. Telecom Fiji Limited (TFL);
9. Morris Hedstrom (MH);
10. VISA Inc.;
11. ITC.

Out of the list of organisations referred to above, the Committee gave priority to Bank institutions when deliberating on the submissions received, since the Bill will only affect the Banks. However the Committee also took into consideration, parts of

¹ Bill Summary – Parliament Research and Library, February 2016

the submissions made by other organisations that would assist the Committee in its deliberation. The Committee would like to extend its gratitude to all those who participated and provided an essential contribution to the Committee's work of deliberating on the Bill.

2.5 Summary of submissions

A table containing only the summary of those submissions considered by the Committee to be pertinent to its deliberation is attached as 'APPENDIX A'. Copies of the verbatim of the public hearings are attached as 'APPENDIX B'.

3.0 COMMITTEES' OBSERVATIONS DURING DELIBERATION

3.1 Administration of the Bill

The Committee acknowledged the co-existence of three principal authorities in the administration of the Bill namely the State, the Fiji Interchange Network Authority (FINA) and the Reserve Bank of Fiji (RBF). The Bill created the Fiji Interchange Network Authority (FINA) for the purpose of direct administration of the services required by the Bill. While the Authority would be responsible for the interchange that allows for the convenience of payments to pass through a single national platform or switch, the Committee understands that an overall payment system currently exists under the domain of the Reserve Bank of Fiji (RBF). The Reserve Bank of Fiji (RBF) advised the Committee that the services of interchange under this Bill and their payment system (FIJICLEAR) under the "Reserve Bank Payment and Settlement System Oversight Regulation 2004" could be distinguished from each other.

The Committee acknowledged the work currently undertaken by the Reserve Bank of Fiji to introduce an overarching National Payment System legislation in future. The interoperability of Banks and the payment system under the administration of the Reserve Bank of Fiji (RBF) are part of the same process, and both issues may be effectively administered under the Reserve Bank of Fiji under its proposed National Payment System legislation.

3.2 Board Representation

The Committee noted that a Board would be appointed as the governing body of the Authority. The Board would comprise a chairperson and four other members appointed by the Minister and members of the Board may hold office for a term of up to three years. The Reserve Bank of Fiji (RBF) was of the view that they should have permanent representation on the Board of the proposed Authority to ensure that the three pillars of Payments Stability, Financial Stability and Economic Stability are in place.

The Consumer Council of Fiji, the Fiji Commerce Commission and the Association of Banks in Fiji (ABIF) also showed a desire to be part of the Board.

3.3 International Experiences of National Payment Switches

The Committee noted the experiences of eight countries within the Asian, African and Caribbean Regions which had already implemented national switches for their respective countries. Of the eight countries, Mauritius was still in the process of introducing a national payment switch system to cover banking transactions using bank cards, ATMs, mobile phones and other emerging electronic methods such as wireless processing.

The Committee was not able to visit the above stated countries for the purpose of establishing its independent views on the effect of their respective laws. Instead, the Committee relied on the information provided by the Reserve Bank of Fiji (RBF) on the effect and administration of the relevant laws connected by the said countries. A brief summary of national payment switches in these countries is as follows²:

COUNTRY	FUNCTION	OPERATOR
India	National Financial Switch (NFS): <ul style="list-style-type: none"> • Interconnects ATMs in the country and facilitates convenience banking for the average Indian. • Network connects 49,880 ATMs of 37 banks 	National Payments Corporation of India (NPCI)
Bangladesh	National Payments Switch (NPS): <ul style="list-style-type: none"> • Creates a common platform for payments from different delivery channels to facilitate inter-bank electronic transactions 	Central Bank of Bangladesh
Oman	OmanNet: <ul style="list-style-type: none"> • Consolidated two earlier switches into one central solution under the management of the Central Bank of Oman (CBO) • Enables migration of all 	Central Bank of Oman

² Information provided by Reserve Bank of Fiji

COUNTRY	FUNCTION	OPERATOR
	<p>financial institutions onto the common state-of-the-art technology platform with the highest international security standards.</p> <ul style="list-style-type: none"> • OmanNet will be connected directly with the national switches of all other Gulf Cooperation Council (GCC) countries on a gradual basis which will enable Oman residents to access their accounts through the ATMs in any of the GCC countries, and vice versa for residents of GCC countries when visiting Oman. 	
Ghana	<p>gh-link™:</p> <ul style="list-style-type: none"> • Interconnects switches of financial institutions and systems of third party institutions to enable them to use a common platform for inter-bank transactions. 	Ghana Interbank Payment and Settlement Systems Limited (GhIPSS) of the Bank of Ghana
Sri Lanka	<p>LankaClear:</p> <ul style="list-style-type: none"> • Goal was to ensure that each of the 3,000 ATMs in Sri Lanka were available to any customer in any part of the island • Second phase will see the incorporation of real time fund transfers between accounts in different banks 	LankaClear with the approval and guidance of the Central Bank of Sri Lanka
Maldives	<p>Electronic Fund Transfer Switch (EFTS):</p> <ul style="list-style-type: none"> • Establishes interoperability of all card transactions in the Maldives by connecting all banks card systems to the Switch 	Maldives Monetary Authority (MMA)
Bhutan	<p>Bhutan Financial Switch (BFS):</p> <ul style="list-style-type: none"> • Facilitates connectivity 	Royal Monetary Authority (RMA)

COUNTRY	FUNCTION	OPERATOR
	between the Bank's Switches, and interbank payment gateway of various e-commerce transactions and activities both domestic and international.	

3.4 Steering Committee

The Committee also took note of the role that will be performed by the Information Technology and Computing Services Steering Committee, which was established under Section 4 of the Reform Technology and Computing Services Decree 2013. Under Clause 44 of the Bill, the 'Steering Committee' will perform the functions of the Board and exercise the powers of the Board until such time the members of the Board are appointed by the Minister.

3.5 Gender analysis

The Committee took into account the provisions of Standing Order 110(2), where a committee conducts an activity listed in clause (1), the committee shall ensure that full consideration will be given to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally.

The Committee was unable to conduct a gender-based analysis due to the unavailability of sex dis-aggregated statistics on the subject under consideration. Also, the Committee did not receive any submissions on gender-based analysis of the Bill. It would appear that this Bill is based on gender-neutral policies and everyone is affected by policies, programs and legislation in the same way regardless of gender.

The Committee noted and is satisfied that the use of ATMs is not restricted to a particular gender but is installed for use by all bank customers. The matters considered in this report, impacts on men and women equally and as such, the enactment of this legislation will ensure accessibility to ATMs by all Fijians around the country, irrespective of the bank they conduct their business with.

4.0 ANALYSIS OF THE EVIDENCE BEFORE THE COMMITTEE

4.1 Consideration of Bill Clause by Clause

The Committee analysed the evidence with regards to the Bill by firstly considering the Bill, clause by clause and then deliberating on it. The Committee saw that certain

features of the Bill needed to be amended. Questions seeking further clarification were sent to the Office of the Solicitor General.

4.2 Deliberation on the Submissions Received

The Committee went through the submissions received from key stakeholders to help it properly review all the features of the Bill. Being a piece of law that will have a somewhat novel effect to the greater populace of Fiji, these submitters, who are considered to be experts in this field, highlighted that there were issues in the Bill and also suggested there should also be certain amendments made.

The Committees' suggestions and also the comments made by the submitters is summarised and highlighted in the table below:

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
Part 1 of the Bill provides the preliminary provisions. These provisions outline the short title and commencement of the new Act, the interpretation of terms used throughout the Bill and the application and objectives of the Bill.	The Committee was of the view that the following words should also be interpreted and included under Clause 2 (Interpretation): <ul style="list-style-type: none"> • bilateral netting • close-out netting • payments netting 	ABIF mentioned that the definition of 'payment service' was open to interpretation and only depended on ministerial designation to operate across a wide range of services. Similarly, they felt that the definition of 'payment service providers' lacked clarity as to who qualifies and the grounds on which qualifications are granted.
Part 2 of the Bill establishes the Authority. It also outlines the		

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
powers and functions of the Authority.		
Part 3 of the Bill establishes the Board as the governing body of the Authority. The Board will consist of 5 members, including the chairperson, and the Board will be responsible for performing the functions of the Authority.		The Consumer Council of Fiji felt that Clause 15(1) does not separate the functions of the Board and the Chief Executive Officer.
Part 4 of the Bill deals with financial reporting and audit of accounts.	Will the change in financial year for the government also affect the financial year of the Authority? Clause 16(1): Suggested amendment is to delete the words "first day of January and end on the thirty-first day of December" and replace it with the words " <i>first day of August and end on the thirty-first day of July</i> "	
Part 5 of the Bill provides for the implementation of the Fiji Interchange Network. The Authority must implement the Network and every transaction routing through the Network must be routed in accordance with the interface message		

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
specifications and guidelines determined by the Authority.		
<p>Part 6 of the Bill provides the licensing provisions for persons who provide payment services or operate payment systems. Only those persons who are licensed will be allowed to provide payment services or operate payment systems and these must be carried out through the Network.</p>		<p>Part 6 Clause 22:</p> <p>RBF was of the view that this clause establishes that, prior to players on the interchange being licensed by the new Authority, such players will first need to get the approval of the Reserve Bank. This provision allows the Reserve Bank to have oversight over the licensing processes and requirements by firstly approving those to be licensed according to our own standards. Without this approval, a payment service provider or a payment systems operator cannot participate on the interchange. This section allows the Reserve Bank</p>

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
		<p>and the Authority to work together to ensure that those who participate on the interchange are legitimate financial system providers or operators.</p> <p>In respect of Clause 26(6), the Consumer Council of Fiji felt that there is no mandatory requirement for the operator or RBF to provide any adequate notice to the participants of any changes to the policies, payment system or fee structure. They felt that this provision was detrimental to consumers as it prohibited them to be aware of the policy change that might have an impact on them.</p>
<p>Part 7 of the Bill provides the process for an appeal against the decision of the Authority to the</p>	<p>The words "<i>or the Reserve Bank of Fiji</i>" be included after the word "Authority" in clauses 28, 30, 31, 32</p>	

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
Minister.		
<p>Part 8 of the Bill ensures that the Authority and the Reserve Bank of Fiji (RBF) have ongoing oversight of the licensees. The Authority will regulate the operation of the Network while RBF will regulate the operations of the payment systems and services.</p>	<p>Insert the word “or” after the word ‘means’ and before the word ‘in’ [Clause 36(2)]</p>	<p>Part 8 Clause 33(1):</p> <p>RBF mentioned that these provisions establish and entrench the role of the Reserve Bank in the provision of oversight over all payment systems under this legislation. This in itself gives the RBF the powers to institute detailed regulations to ensure the development of both the requirements for those that will be members of the interchange and those who choose not be members of the interchange.</p> <p>ABIF had strong reservations regarding the proposed power of the Authority under Clause 35 as they felt that there were extraordinary powers which</p>

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
		<p>international banks would be reluctant to agree to. Furthermore, Part 8 enables the Authority to target “specific categories” for setting standards and then provide a minimum of 15 days’ notice before they take effect. This does not reflect real world operability.</p> <p>Clause 37: Consumer Council of Fiji stated that whilst the clause provided for appropriate use of customers’ information, participants needed to ensure that there is protection of consumer information at all material times.</p>
Part 9 of the Bill provides for the settlement of accounts, netting and finality of payments.		
Part 10 of the Bill provides the miscellaneous		<p>Clause 42: Consumer Council of Fiji</p>

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
provisions.		<p>was of the view that resolution of any dispute through the process of arbitration can still be complex, since the process is similar to litigation.</p> <p>Participants can be encouraged to use mediatory process at the Fiji Mediation Centre to ensure the disputes are resolved in a timely manner. This will also ensure that the disputants have a win-win situation in their disputes.</p> <p>Question was also raised on what would happen in situations where the service provider is unable to resolve the dispute as stipulated under Clause 43(1).</p> <p>ABIF raised their concern in terms of the compliance period of 6 months (Clause 48(1)) as the mandated interchange project between</p>

FEATURES OF THE BILL	COMMENTS/DELIBERATIONS BY COMMITTEE	OTHER COMMENTS
		ANZ, BSP and Westpac took 2 years to finalisation. Also, the fines in clause 48(2) are not reasonable and should be left to the Authority to decide.
Other Issues Raised: The Bill when it becomes law, comes under the responsibility of the Minister that would be responsible for the administration of the Act.	The Committee was concerned that the Minister responsible was not specified in the Bill.	

5.0 CONCLUSION

After its deliberation the Committee saw that there is a need for some minor amendments to the Bill for clarity as highlighted above to include certain things, mainly definitions. There was strong support from the submitters towards the Bill. The amendments which the Committee felt necessary were made in consultation with the drafters so as not to upset the objectives of the Bill. Those amendments are reflected in the amended copy of the Bill presented with this report.

The Committee through this report commends the Bill to the Parliament.

APPENDICES

APPENDIX A

SUMMARY OF SUBMISSIONS RECEIVED BY THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
Reserve Bank of Fiji	<ul style="list-style-type: none"> • Sees the implementation of a National Switch as an important development in Fiji's financial system. • Operates a payments system specifically for the commercial banks called FIJICLEAR. • Responsible for the soundness of Fiji's financial system stability; since payments systems form an integral part of the financial system it is critical that the RBF has the necessary powers to approve, monitor and regulate the various payments systems. • There is no specific overarching legislation governing Payments Systems in Fiji. The RBF's Payment and Settlements System Oversight Regulation 2004 was eventually passed and FIJICLEAR was established in 2007 with all commercial banks licensed as members. • Supports the new legislation as it will allow for the convenience of payments to pass through a single national platform or switch. • Government is investing in the network infrastructure and setting up the system. 	<p>Part 6 Section 22 allows the RBF and the Authority to work together to ensure that those who participate on the interchange are legitimate financial system providers or operators.</p> <p>Part 8 Section 33(1) establishes and entrenches the role of the RBF in the provision of oversight over all payment systems under this legislation.</p>

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>The Interchange will bring about total interoperability and allow even a new player to have immediate access.</p> <ul style="list-style-type: none"> • Hopes that the National Switch will bring about affordability through greater volumes of transactions which would lead to lower costs and lower interchange fees which will flow on to benefit the consumers. • As the national Interchange develops it can also include new players such as mobile network operators. • Consultations have been undertaken between the RBF and the Ministry of Justice during the finalisation of the Bill. • Supports the Bill but feels that it is extremely vital that the interchange and supportive technology infrastructure is completely robust to withstand the volume of transactions for which it must cater. • Requests that RBF be represented on the Board of the proposed Authority. 	
Association of Banks	<ul style="list-style-type: none"> • Split decision on the need for a National Switch. • There appears to be no mandated standards on 	<ul style="list-style-type: none"> • Strong reservations regarding the proposed power of the Authority under Part 8, clause 35 as they are extraordinary

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>access or security that operators must achieve before it becomes operative.</p> <ul style="list-style-type: none"> • There has been little consultation as to how the business model will operate and what fees and charges will apply. • Designation of complying within a 6 month period after the act becomes effective is also of great concern; it took two years for the interchange project between ANZ, BSP and Westpac to be finalised. • More clarity should be provided on the role of the Reserve Bank of Fiji and the lines of demarcation between the Authority and the RBF. • Licensing system under Part 6 is widely drafted and whilst section 24 may exempt banks from the requirements, this is subject to both ministerial approval. Banks currently licensed under the Banking Act should be automatically exempted. • Further consultation and stakeholder involvement is required before the Bill is considered by Parliament. 	<p>powers which international banks would be reluctant to agree to.</p> <ul style="list-style-type: none"> • Definition of payment service is widely defined and open to interpretation, and only depends on ministerial designation to operate across a wide range of services. • Definition of Payment Service Providers also lacks clarity as to who qualifies and the grounds on which qualifications are granted. • Fines in clause 48(2) are unreasonable and should be left to decision by the Fiji Interchange Network Authority.

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<ul style="list-style-type: none"> • ABIF members support a phased approach to payment system reform which involves implementing a clearly defined industry access regime which will promote efficiency and competition in the payments system. • The banking industry will accept the “umpire’s” call on the establishment of a National Switch. • ABIF wishes to be heavily involved in the design of the business model and all the technical requirements, and believes that a seat on the Fiji Interchange Network Authority Board or the Working Committee should be reserved for them. 	
ITC	<ul style="list-style-type: none"> • That there is already a bilateral arrangement between the Banks in Fiji; ANZ, Westpac and BSP and other Banks are not included in it. The new Interchange (National Switch) will allow all the Banks to interconnect and interchange on the ‘one’ National Switch. Two types of transactions will come in to place; one is where transactions are made by a customer using his or her Bank card to 	

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>withdraw from an ATM or make payments on an EFTPOS machine of the Bank he or she is a member of, and the other is where a customer uses his or her Bank card to withdraw from an ATM or make payments on an EFTPOS machine of another Bank. The later transaction is where the National Switch will be used.</p> <ul style="list-style-type: none"> • ITC deals with the technical aspects of the National Switch and the policy aspects are dealt with by the Organisation that are pushing for the Bill to be passed. ITC has one of the best data centres in the country and is well accredited, thus is capable of maintaining such a National Switch. • Basically, at the end of the day, setting up such a National Switch in Fiji will not be such a hassle, as the population of Fiji is not as much, compared to some countries that have a form of National Switch and the population there overwhelms the number here in Fiji. The main 	

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	<p>objective is that at the end of the day, we ensure that the citizens have access to ATMs and that the rest of those technical issues and made easy and at a cheap cost.</p>	
<p>Fiji Commerce Commission</p>	<ul style="list-style-type: none"> • The Commerce Commission welcomes the new legislation; absence of such legislation marginalizes smaller market players. • By not allowing infrastructure sharing, there is duplication and wastage as there could only be a few customers in some geographical locations and it may not be economically sound to set up two or three ATMs there. • The Commission supports such an initiative because it does, to a great extent, try and fix the market failures in terms of being a dominant player with the possibility of abusing that position by locking out competitors and marginalising the smaller players. • The rates charged by the bank to the merchant is not clear and there is a very strong indication that margins are being added to this. 	

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<ul style="list-style-type: none"> • The Commission has been actively involved in setting interconnections for the Telecommunications Sector. • Suggests that there is a need to recover costs but it should not be anything more than what the customers are being charged plus purely the cost of interconnection. Therefore it will be critical to look at the situation bank by bank. The costs for setting up an ATM will be recovered therefore the interconnection should be purely the cost of interconnecting. • It will be important to also consider the provisions of the Commerce Commission Decree 2010, especially to do with Parts 3 - Access Agreements, and also the principle of interconnection. At the moment, the Decree already allows for access agreements to be made and that should be consistent with the requirements under this particular piece of legislation. • When the final consideration is given, especially for the second part of the market, there may be a possibility that certain provisions may start 	

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>overlapping with this legislation because in terms of Part 5(a), it is purely on the telecommunication sector and of course the mobile industry is one of those dominant players in terms of the telecommunication sector.</p> <ul style="list-style-type: none"> • Commerce Commission would like to be on the Board, especially to ensure that the agreements signed are not restrictive; the scrutiny of the contents of the agreement is really critical. 	
<p>Consumer Council of Fiji</p>	<ul style="list-style-type: none"> • The Council supports the Bill and recommends further strengthening of consumer protection • Implementation of a National Switch will link all payment systems in a single network. • A centralised interoperable infrastructure will enable consumers and businesses to transfer money between customer accounts in different banks through mobile phones in real time. It will also give an opportunity to non-bank entities to set up ATMs in Fiji. • The Council foresees that a National Switch will prevent 	<ul style="list-style-type: none"> • Section 15(1) – the provision does not separate the functions of the Board and the Chief Executive Officer. The appointment of the staff must solely be the responsibility of the Chief Executive Officer of the Authority. This will ensure that there is a separation of functions between the Board and the CEO. • Section 26(6): There is no mandatory requirements for the operator or RBF to provide any adequate notice to the participants of any changes to the policies, payment system or fee

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>anti-competition and collusion as seen in the marketplace.</p> <ul style="list-style-type: none"> • Council supports the Bill for the following reasons: • Access will be less complicated for new entrants, and therefore strengthen competition • Licensing fee in the long run can assist in the extension of ATMs in remote areas to assist rural dwellers • National Switch will provide a platform to standardise and reduce ATM charges • Wider choice for consumers in the future to use either banks or mobile phones to do banking • Increase Financial inclusion • Increase Access and Convenience 	<p>structure. This provision is detrimental to consumers as it prohibits them to be aware of any policy change that might have an impact on them. The provision should be made mandatory for the participants to provide adequate notice on any changes to the payment system/fee structure. This is consideration of the fact that these changes might have an ultimate impact on consumers who will be using the services provided by the operators.</p> <ul style="list-style-type: none"> • Section 37: Whilst this Section provides for appropriate use of customers information, participants need to ensure that there is protection of consumer information at all material times. • Section 42: Resolution of any dispute through the process of arbitration can still be complex, since the process is similar to litigation. The participants can be encouraged to use

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	<p><u>Questions for clarification:</u></p> <p><i>Why are the 3 big banks charging \$1.50 as interchange rate while smaller ones are charging \$1.00?</i></p> <p><i>Can RBF provide data on the ATM industry which includes information on the costs and revenue generated by the ATMs and the amount of balance enquiry fees paid by consumers' in Fiji?</i></p>	<p>mediatory process at the Fiji Mediation Centre to ensure the disputes are resolved in a timely manner. This will also ensure that the disputants have a win-win situation in their disputes. The dispute can be referred to the Fiji Mediation Centre for mediation as a first step. If the dispute is not resolved at the Centre, then it could be submitted to arbitration for resolution as the next step. Having a Financial Ombudsman in Fiji will make certain that RBF focuses on prudential regulation whilst the Ombudsman's focus will be on financial consumer protection.</p> <p>• Section 43(2)(b): The redress system may be unfair where different payment service provider will have different guidelines to address consumer grievances. There will be no consistency in the application of the code of conduct by the various payment service providers. It would be viable to have a standard code of</p>

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
		<p>conduct, which can be applied by all the payment service providers. It must be noted that RBF being a regulator has not put in place any standard code of conduct for licensed financial institutions to adhere to. All financial institutions have their own internal policies which differs from the other institutions.</p> <p>The RBF clarified that this data cannot be disclosed as it is confidential.</p>
<p>Morris Hedstrom (Carpenters Fiji Ltd)</p>	<ul style="list-style-type: none"> • Fully supports the Bill for the following reasons: • Fiji needs to reduce its dependency on cash for various reasons and costs of operating a credit card must be fair and reasonable. • Charges levied by banks for credit card use vary between 2.5% to 2.9% of transaction value to the merchant. This is quite high considering competitive pricing in the supermarket business and that MH absorbs charges instead of passing it on to its customers. • We are of the opinion that charges are to be regulated 	

ORGANISATION	SUMMARY OF SUBMISSION	COMMENTS ON CLAUSES IN THE BILL
	<p>and limited in type. The creation of this Bill will hopefully not create opportunities for organizations to increase credit card fees type and rate.</p> <ul style="list-style-type: none"> • The customer is at the receiving end under the current system and this initiative will create a platform that will enable anti-competitive measures against service providers, reduce the cost associated with electronic transfer transactions, promote financial inclusion, increase access by customer to financial institutions and share infrastructure. • Supports the licensing concept and fully agrees with objectives 	

BELOW IS A TABLE CONTAINING OTHER COMMENTS MADE BY ORGANISATIONS ON THE CLAUSES OF THE BILL THAT WERE ALSO CONSIDERED VITAL IN THE COMMITTEE'S DELIBERATION:

<p>Clause 21 (1) & (2) - Principle of Licensing</p> <ul style="list-style-type: none"> • <i>Upon issuance, how long will the license be valid for before requiring renewal?</i> • <i>Any indicative annual license fee?</i> • <i>Who bears the cost of integration? Will that be taken care from the license fee?</i> <p>Clause 22 - Application for a licence to provide a payment service or operate a payment system</p> <ul style="list-style-type: none"> • Prescribed form to be included in the Regulations (not yet circulated) or be in the form which may be directed by the Fiji Interchange Network Authority- currently
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unknown

- Prescribed fee and its extent is currently unknown. Need more information

Clause 23 (1) - Grant, renewal, suspension and revocation of a licence

- The license may be subject to terms and conditions determined by the Authority, quite-wide unrestricted powers. (this should be clearly spelt out to avoid the Authority being blamed for favoritism and for the sake of fair assessment against and objective set of pre-prescribed terms and conditions)
- These should be clearly articulated to avoid subjective interpretation.

Clause 23(1) - the FINA's power to attach conditions on a licence (including upon renewal (s.23(4)(a))) even after the licence has been issued (clause 23(5)) is too broad. The Bill should identify or describe the types of matters that may be the topic of a licence condition. Particularly as there is no guarantee that the same licence conditions will apply to all licensees.

Clause 23(2)&(3)

- The grounds of determination of capital levels are not particularized or limited. **(Clarification required)** If these are to come in the regulation, it is hoped that comments will be sought after draft regulations are done.

Clause 23(4)

- ***Will the licensing fee be payable upon renewal again?***

- ***If yes, will it be of same quantum as every year?*** This could be quite a burden on smaller players or new entrants and limit their ability to be a financial service provider.

Clause 23(4)(b)(iv)

Payment instruments are defined, but "faulty" is not. Given the potential consequences, greater clarity is required on this point.

Clause 23(5)

- Currently, no scope for consultation with the provider before amendment of license. It is suggested that consultation with key stakeholders is considered.

Clause 24 - Exemption

- Grounds for exemption are not stated. Need clarification here and seems to favor the banks with the exemption limited to those licensed under the Banking Act. The scope for exemption should be expanded to include new financial service provider such as Vodafone M-PAiSA (mobile wallet) as long as such financial service providers are approved by the Reserve Bank of Fiji.
- Provides for the exemption of banks. However, exempting them, even if they are licensed under the Banking Act, creates a two tiered system where VFL (and Mobile network operators generally or new technology platforms) are subject to this new regime and specialised regulator while the exempted banks are not.

Competing service providers should be subject to the same rules as one another.

Clause 25(5)

- The FINA's power to issue directives regarding governance, management, etc. is too broad. Any such power should be limited to the licensee's role as a payment service provider. (i.e. FINA should not be able to issue directives to VFL that relate to VFL's governance generally or to its engagement with its telephony customers. This is governed by TAF

Clause 26 - Rules of systems

- *Will this be prescribed or will it be left to individual operators to formulate their own?* The fines seem a bit exorbitant.

Clause 33 - General standards and measures of the Authority

- The extent to which the Authority may exercise its powers under this provision is rather general and unlimited. Also reference is made to RBF for standards. It is unclear which body (the Authority or RBF) is the real authority

Clause 34 - Reporting and disclosure requirements

- Extent, particulars and periods for reporting and disclosure are unspecified. Clarification needed.
- *As the Fiji Interchange Network is to be owned by the State, will the State undertake specific responsibility for security of the system from viruses, hacking or other security breaches?*
- *Will the providers have access to information on such security precautions undertaken by the State for its own governance purposes?*
- *Will the State procure adequate insurance to compensate providers (and its' customers) in the event of security breaches, viruses, etc.?*

Clause 31 - Power to examine records

- Wide powers of the Authority

Clause 38 - Fees and charges

- Unclear whether providers will be compensated if substantive infrastructure costs are incurred to ensure compliance with the Act
- The bill when passed is quite imposing. If costs of compliance are too onerous, it may lead to some financial providers opting out as a service providers hence lowering competition in the market.
- The potential fees and charges under this regime are unconstrained. There will be a license application fee (22)), possibly an annual license fee (s.23 4 (a), and some form of interconnection charge for use of the FIN (38). There is no requirement for this interconnection charge to be cost-orientated, and no principles to guide the FINA in determining the fee. All fees and charges that FINA may impose should

be geared towards cost recovery...that will at least put a ceiling on the potential costs. The exclusion of banks from the licensing requirements (s.24 (1)) would mean that the burden of those costs would largely fall on the new entrants/new technology platforms/MNOs that compete with the traditional banks, which would be unfair is our concern.

Clause 47(1) - Consequential

- This Act will prevail notwithstanding other relevant statutes, This needs to be clarified, eg. *if the provision in this act conflicts with the Banking Act or FTR, will there be clear understanding that the FIN Act will prevail?*

Clause 47(2)

- Vodafone has an existing mobile wallet to bank account integration agreement with one of the banks. *Will this cease on the enactment of this Bill?*

Part 7 Clause 28 - Appeals

- *Given that the Reserve Bank would have a mandate over regulation of payment systems, could a decision of the Reserve Bank be appealed to the Minister?*

Clause 33(b)&(c)

- *Could there be a consultation period of 15 days, followed by a notice of implementation of 15 days, given this is a new system and we do not know how it might operate?*

Clause 35

- Proposes that the clause be aligned with RBF regulations. There should be some sort of process where this can be made efficient on both sides

PART 1 – PRELIMINARY

Interpretation

- *What is the difference between the terms “clearing house” and “licensee”?* These separate definitions might create complication and doubt as the licensee and the clearing house would essentially be the same body.

“Netting arrangement” – There would be an interconnecting fee for the banks or for two interchanging operators to pay each other to settle and carry on with their transaction.

- *Who bears the cost or the fee that is applied, is that passed over to the consumer or does the operator absorb that?*

Application

Clause 3 (2)

- We interpret this as not being obliged to interconnect with the other operators. This might cause banks to not be part of the Interchange Network and continue with their own transactions, thereby rendering the whole network to no effect.
- This might even create a power play where operators with significantly bigger

markets may push other operators out of business.

PART 5 – FIJI INTERCHANGE NETWORK

Interface message specifications and guidelines

Clause 19

- ***How do you determine the cost or the amount of effort involved in getting the various networks to communicate with the Interchange Network and who bears the bill for that?*** Some larger operators might have a significantly higher bill which may be beyond small operators to pay.
- ***Who pays for modifying the existing system to interconnect to the Interchange platform?*** There can be an allocation set aside to enable software modifications for networks to interconnect to the Interchange Network.

PART 6 – LICENSING

Application for a licence to provide a payment service or operate a payment system

Clause 22 (a)

The prescribed fee mentioned has not been disclosed or has not yet been prescribed.

- ***What will the fee be and how significant will it be?***
- ***Will the fee vary depending on the operators net or gross business in that area? Will the licence fee be uniformed or on the volume of business of a provider?***
Need for more clarity.

Exemption

Clause 24

- If a financial institution is granted an exemption, power play or anticompetitive behavior may set in.

PART 8 – ONGOING OVERSIGHT

General standards and measures

Clause 33

- It is more viable to place the responsibilities of the Authority and the RBF at the outset of the Bill (PART 1 – PRELIMINARY) where the definitions are. This will prevent extraneous questions.

PART 9 – SETTLEMENT, NETTING AND FINALITY OF PAYMENTS

Settlement accounts

Clause 39(1)(b)

- ***Will the operators be required to exchange real value with each other on a daily basis at the end of a 24-hour cycle or is it a weekly or monthly settlement?***

APPENDIX B

**COPIES OF VERBATIM FOR THE PUBLIC HEARINGS
CONDUCTED BY THE COMMITTEE.**

**VERBATIM NOTES OF MEETING OF THE STANDING COMMITTEE ON JUSTICE,
LAW AND HUMAN RIGHTS HELD IN THE COMMITTEE ROOM (EAST WING),
PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON TUESDAY, 1ST MARCH,
2016 AT 10.30 A.M.**

Interviewee: Office of the Solicitor-General

In Attendance:

1. Ms. Tracey Wong (Deputy Solicitor General)
2. Ms. Lyanne Vaurasi (Acting Deputy Chief Law Drafter)

MR. CHAIRMAN.- Good morning ladies and gentlemen, Honourable Members and members of the Secretariat; staff of the Office of the Solicitor-General, may I please ask you to come to the bench now for your presentation.

Apologies for starting late today, as you know, our country has been hit by a disaster of a magnitude that has not been experienced before. Until late last night, I was in the West providing assistance and relief efforts in the West and what we have seen so far on the devastation from at least in the areas that I had visited in Ba, Lautoka, Rakiraki, Tavua and parts of Naitasiri are very bad. The houses have been wiped out from the foundation level, a lot of people are sleeping under cardboards and a settlement in Ba where people have no homes left. We have provided them with tarpaulins and all, but they are sleeping under trees and it so much like one of those warzone areas that we see in the international news items, and if we can all remember them in our prayers.

Having said that, the business of Government must continue, Parliamentary business must go on, otherwise we will not be able to reach our objectives. I was thinking of having Committee sessions previously suspended, but we cannot do that, we have to present a report in April, so we will continue.

As part of this Committee's review of the Fiji Interchange Network Payments Bill 2016 (Bill No. 15 of 2016), we welcome Madam Tracey Wong and Madam Lyanne Vaurasi, the Deputy Solicitor General and Acting Deputy Chief Law Drafter respectively from the Office of the Attorney General, who are present here this morning to brief us on this Bill. It is a very important piece of legislation - a Bill that we hope to see into legislation soon,

We would request the officers from the office of the Solicitor-General now to please take us through the Bill and there are some pertinent questions that the Committee had pondered upon and we have a list which we will ask you as we go along. I hope you do not mind us asking questions as we go along because it is better to clarify things along the way.

There are certain areas that we would like you to address and one of them is the purpose of the Bill and the coverage. What sort of areas is this Bill going to cover and what does it hope to achieve?

We are of the understanding so far, if I may give you some lead, is that the Committee understands that this Bill will affect all plastic cards, i.e., ATM, credit cards, et cetera, if that is the case.

I understand that it is to regulate the different charges that is levied by respective banks. We have not heard from the banks yet, so we anticipate a very detailed presentation from you today. You basically have the whole of today as we do not have any other presenters.

With that, I again welcome Ms. Tracey Wong and Ms. Lyanne Vaurasi, you may now continue with your presentation.

MS. L. VAURASI.- Thank you, Honourable Chairman, as you have mentioned, would you prefer that we take you through pertinent features of the Bill before we address the questions that you had raised in your letter to our office?

MR. CHAIRMAN.- Yes, because the Committee has read the Bill in detail (clause by clause) but it is a technical Bill, so we will appreciate if you can first address us on the pertinent issues: what this Bill hopes to capture; what sort of areas of commerce it will be relevant to; and after that, we will come to the questions.

MS. L. VAURASI.- Sure, thank you Honourable Chairman.

This Bill essentially provides for the implementation of the National Switch. The National Switch is what it is commonly referred to, but under the Bill you will note under Part 5 in particular that the National Switch is referred to as the Fiji Interchange Network.

This Fiji Interchange Network will be implemented by the Fiji Interchange Network Authority and that is a statutory authority that is established under the Bill that will basically regulate the operations and the functioning of the Fiji Interchange Network or the National Switch.

MR. CHAIRMAN.- Just on that point, is this authority a self-funding authority?

MS. L. VAURASI.- This statutory authority, if you refer to Clause 16 (2), “ the funds of the Authority must consist of any money appropriated for the purposes of the authority and all other money lawfully received by the Authority.”

MR. CHAIRMAN.- So, there will be a separate allocation for this in the budget, perhaps?

MS. L. VAURASI.- That is correct, Honourable Chair.

MR. CHAIRMAN.- Secondly, on the equipment. At the moment, we have the automated teller machines owned by respective banks. Once this Authority comes in, will they take charge of individual machines? That is the question that was raised to us.

MS. L. VAURASI.- The bank ATMs will continue to be provided by the banks themselves. It is the network which is a system that interconnects payments systems that will be regulated by the authority.

MR. CHAIRMAN.- Just like the software programmes and the communication line.

MR. L. VAURASI.- That is right, Honourable Chairman.

So, the Fiji Interchange Network Authority, which is a statutory authority, it will consist of a governing board which will comprise five members, including the Chairperson and the composition of the Board will be prescribed by regulations.

So, if I could take you through the functions and the powers of the authority. The functions and powers of the authority are outlined in Clauses 6 and 7 of the Bill. These are at pages 7 and 8 of the Bill.

MR. CHAIRMAN.- Do all the Honourable Members have copies of the Bill before you? Could we provide one for Honourable Nanovo? Honourable Singh, do you have a copy? Clauses 6 and 7?

MS. L. VAURASI.- Yes, 6 and 7 of the Bill, Honourable Chairman.

Under Clause 6 the powers of the Authority are listed:

- a) modify operating guidelines from time to time;
- b) appoint investigators to investigate any complaints made against a licensee;
- c) exercise disciplinary powers in accordance with the Act;
- d) issue, renew, suspend or revoke a licence issued under the Act;"

MR. CHAIRMAN.- When you say licensee, who will be a licensee here? The respective merchant provider?

MS. L. VAURASI.- Under Clause 3 of the Bill, it provides ...

MR. CHAIRMAN.-Alright, the definition is there. "Licensee" means a person licensed to provide a payment service or operate a payment system in accordance with section 21."

That has to be the merchants, the banks, et cetera. Under 21 – "Any person to whom this Act applies who provides a payment service or operates a payment system must be licensed."

Alright we get it. Thank you.

MS. L. VAURASI.- The other powers include –

- e) determine the fees to be paid by licensees;
- f) initiate legal proceedings against any person under this Act;
- g) do all things that a corporate body may do, in accordance with the functions under Section 7."

Under Clause 7, you will see the functions of the Authority. Essentially, Honourable Members, this Act if and when it does come into force, it will firstly apply to all banks and that can be found under Clause 3, so upon the commencement of the Act it will firstly apply to banks and then it will later apply to those payment service providers that are designated by the Minister by notice in the gazette.

MR. CHAIRMAN.- Those little EFTPOS machines that we have in hotels, restaurants and buses those little ones, they also can be part of this total network.

MS. L. VAURASI.- Yes, Mr. Chairman because this Act will apply to all banks upon the commencement and all ATMs and all EFTPOS machines and all those payment service providers that are provided by banks will need to be licensed and connected to the National Switch.

MR. CHAIRMAN.- Just a general question. Is this Bill unique to Fiji, or you have had reference point of some other jurisdiction in drafting this one? Is this Bill unique to Fiji or you have had a reference point of some other jurisdiction in drafting this Bill? Is there any other similar legislation in another jurisdiction?

MS L. VAURASI.- Other jurisdictions regulate the operation of payment systems and the provision of payment services.

MR. CHAIRMAN.- We understand that the two countries that we had discussed, one is India which has a similar legislation and the other, Malawi which also has a similar concept whereby the government regulates the network so that some smaller players are not pushed out of the system.

In the current case, we have heard that if banks like Bred Bank and HFC do not have a contract with the larger players like ANZ, Westpac and BSP, the charges that are levied to the smaller banks are actually a turn-off for a lot of clients from accessing those banks. Have you done a comparison with legislation in other countries in this respect?

MS. L. VAURASI.- Not India and Malawi in particular, Hon. Chair, but we have looked at the payment system laws in countries like Australia.

MR. CHAIRMAN.- Australia also has their own payment system?

MS. L. VAURASI.- They do not have something like the national switch, but we have looked at their laws regarding payment systems and payment services.

MR. CHAIRMAN.- On that point, have the banks had a chance or opportunity for their input in the drafting of this Bill?

MS. L. VAURASI.- Yes, Mr. Chairman. In 2013, the banks were consulted and in early February, all the banks, the Fiji National Provident Fund, Vodafone and Digicel were all consulted on the provisions of the Bill.

MR. CHAIRMAN.- If I may ask this question; what is the general opinion on such evaluation?

MS. L. VAURASI.- The stakeholders, the banks, including Vodafone, FNPF and Digicel had provided their comments to the Government and those comments were taken into consideration.

MR. CHAIRMAN.- Perhaps, the Secretariat can also note Digicel, Vodafone, FNPF ...

MS. L. VAURASI.- ... and the banks in Fiji, including the RBF (RBF).

MR. CHAIRMAN.- Thank you.

We are hearing the RBF tomorrow. If you are available and do have time, we would request that you be present with us when the RBF is here. In case they ask for some amendments, we can consider them on the table.

MS. L. VAURASI.- Yes, we will confirm with the Secretariat.

MR. CHAIRMAN.- Thank you, let us move on.

MS. L. VAURASI.- As I was saying, Honourable Members, the Act, upon its commencement, applies to banks and were later applied to those payment service providers or classes of payment service providers who are designated by the Minister by notice in the gazette. So, if you do provide a payment service or operate a payment system, you would need to be licensed under the new Act. You would have to be licensed under Part 6, in particular, and if you take a look at Part 6 which begins with Clause 21 on page 12, it says in Clause 21(1), I quote:

“Any person to whom this Act applies who provides a payment service or operates a payment system must—

- (a) be licensed under this part to provide the payment service or operate the payment system; and
- (b) provide the payment service or operate the payment system through the Network.”

So everything has to be done through the network.

MR. CHAIRMAN.- So currently, when we access EFTPOS machines, they are using a particular network and once this comes into force, that network will be replaced by the new network, is it?

MS. T. WONG.- Sir, the current system is that, certain banks have agreements between each other and so under their agreements they allow each other to use each other's networks. So, if you are using an ANZ card at a Westpac ATM, there is an agreement between ANZ and Westpac that they will share their ATM facilities.

MR. CHAIRMAN.- But the wireless network they are using at the moment, what bank are they using?

MS. T. WONG.- No, that is their own network, so they have allowed each other to share.

MR. CHAIRMAN.- The wireless network that they are using at the moment, it is either Vodafone or Digicel. Is that so, because sometimes when you go to the bank, it says “offline”, what line are they talking about?

MS. T. WONG.- I think they are just talking about their journals.

MR. CHAIRMAN.- Their journals system.

MS. T. WONG.- Yes.

MR. CHAIRMAN.- So once this one comes in, all will then be hooked to this national line?

MS. T. WONG.- That is right. The network is intended to replace the separate agreements that each bank has in place because of things that you have already raised such as the inability for the smaller banks to join the network or being charged exorbitant fees to be part of the network. So, if we refer to the explanatory memorandum of the Bill on pages 22 and 23, the purpose of establishing the network is part of it; to prevent the anti-competitive measures amongst payment service providers that are currently in place which is restricting its use, for example, Bred Bank being able to use your Bred Bank card at a Westpac or an ANZ ATM because the charges are too high.

So, with the implementation of the network, the purpose is then for all banks to join and use the network as participants, and to then enable customers to make payments through using different facilities.

MR. CHAIRMAN.- It will be different facilities on one national network and that will no longer be regulated by individual agreements between banks but by this authority here.

MS. T. WONG.- Yes, that is right.

MR. CHAIRMAN.- Thank you.

MS. L. VAURASI.- If you are not licensed under the new Act and you continue to provide a payment service or you continue to operate a payment system, then you would be committing an offence under Clause 21(2) and the fines are clear in paragraphs (a) and (b) of this subclause.

MR. CHAIRMAN.- The fines that are there seem excessive. The question is; how are those worked out, is there any formula that was applied? What is the situation in other countries, like Australia?

MS. T. WONG.- Sir, no formula was applied in terms of the fees but the reason why theirs is so high is to be a deterrent for people to operate their payment system outside of the network.

MR. CHAIRMAN.- The rationale seems to be that if it is a small fine, a large corporation might still want to continue with their private network, keep the smaller players out and keep on paying these because it is still commercially viable.

So, having a general fine, especially when banks and financial institutions are involved, they will be deterred from having their small networks anyway, and they will not be able to operate without a licence.

MS. L. VAURASI.- Yes.

MR. CHAIRMAN.- That seems reasonable to me.

MS. L. VAURASI.- That is correct, Mr. Chairman. That is also why there is an additional fine of \$1,000 for a natural person and \$5,000 as well for a body corporate.

MR. CHAIRMAN.- An additional fine of \$1,000 for each day?

MS. L. VAURASI.- Yes, for each day the offence continues.

MR. CHAIRMAN.- Not for each transaction?

MS. L. VAURASI.- No.

MR. CHAIRMAN.- Thank you.

HON. RATU S.V. NANOVO.- Mr. Chairman, once they are caught, are they given leniency, like they are given some time to conform or will they be fined straightaway?

MR. CHAIRMAN.- It looks like there is a strict liability offence. It says in Clause 26(8), "Any person who contravenes this section commits an offence and is liable upon conviction...", it does not give any leeway of explanation like in other laws such as the FICAC Act or Crimes Decree whereby there are provisions given, provided you can show, for example, a defence. In here it seems there is strict liability, and that is something that the draftsman can consider.

Whenever there is a licensing offence in criminal law, it is almost a strict liability because all you need to do as a defence is to show the licence. If you do not have the licence, you are done, so it is a strict liability offence, is it not Ms. Vaurasi? Is that the way?

MS. T. WONG.- That is correct, Sir.

MR. CHAIRMAN.- I think it is called a negative averment. If the allegation is that you do not have a licence, all you need to do is to show a licence and you are off the hook. So, you do not have to show that you did not obtain a licence because of A B and C. I just do not have the licence and you are liable with a fine. That is perfectly normal in other laws as well.

HON. RATU S.V. NANOVO.- Still on that, Mr Chairman, will they be given time, or will they be advised of when will this Bill come into effect?

MS. T. WONG.- Sir, if you refer to Clause 48 on page 21, there is a transitional period provided for all banks to obtain their licences.

MR. CHAIRMAN.- So, there is a time limit of six months, thank you. You can continue with your submission.

MS. L. VAURASI.- Under Clause 22 on page 12, it says: "An application for a licence must be in the prescribed form and accompanied by the prescribed fee, accompanied by a list of all the types of payment instruments used by the applicant." A written confirmation from the RBF that the applicant's service payment systems and rules and internal policies meet the standard required by the RBF, and any other information that the Authority may require.

On this note, it is important to remember that under this particular Bill, the RBF is responsible for regulating payments systems and payments services while the Authority is responsible for regulating the operations of the network. So, the responsibility for payments systems and services still rests with the RBF.

MR. CHAIRMAN.- There is a pertinent question that the Committee had discussed earlier on the same point that at the moment, we have different networks for different groups. So, if the ANZ network is down, you can always go to BSP or Westpac and withdraw with the same card by paying a fee. Now, if there is a single network and it gets down, will it affect the entire line of communication for all ATMs and EFPTOS machines? That seems to be the case.

MS. T. WONG.- I think that is correct, and we will need to confirm with our technical people.

MR. CHAIRMAN.- Yes, it is a technical issue though. It is something that is beyond the control of the law, but we might consider some contingencies on that. Like in the current situation in the West, after the cyclone and the towers have fallen, you cannot access most ATMs because they operate on different network except for the ANZ ATMs which are the ones working and this is something to consider. What happens in a situation like that?

Ms. Vaurasi you can continue.

MS. L. VAURASI.- So the Authority, under Clauses 23, 24 and 25, will be processing the applications and will give the grant, renew, suspend and revoke licences that have been issued to applicants under Part 6 of the Bill.

MR. CHAIRMAN.- What are some of those situations in which a licence can be suspended or revoked?

MS. L. VAURASI.- Sir, if you look at Clause 23(4) it says: "A licence granted by the Authority in accordance with subsection (1) maybe, in particular, paragraph:

- (b) suspended or revoked by the Authority in the following circumstances:
 - (i) failure by the licensee consent to comply with any condition directive, order or guideline issued by the Authority;
 - (ii) if in the opinion of the Authority the licensee concerned has ceased to provide a payment service or operate of payment system;
 - (iii) if the licensee does not fully disclose or fails to satisfactorily disclose information required by the Authority;
 - (iv) If the licensee introduces or uses faulty payment instruments in the market;
 - (v) If the licensee is declared bankrupt or insolvent;
 - (vi) if the licensee fails to commence business within the time specified by the Authority."

So, those are grounds for suspension or revocation of a licence by the Authority.

MR. CHAIRMAN.- I see there is no general clause. Usually, there is also a general clause for any other breach that the Authority may find. I do not know what the exact words are, but these seem to be the six binding ones. There is nothing of a general sort of clause in there. Would the drafters consider if there is any other breach the Authority seems, perhaps?

MS. L. VAURASI.- Under the Bill, in general, the Authority continuously has the power to make directives and a breach of those directives or so would result in the revocation or suspension of a licence.

MR. CHAIRMAN.- So, it could come under Clause 4(b)(1) - any guidelines order issued by Authority.

You may continue.

MS. L. VAURASI.- Clause 26 basically provides for the rules of systems and these are rules that are formulated to govern the management and operations of the system that the operator runs and if you note in particular Clause 26(4), the RBF has the power to vary or revoke any rules of the operator formulated under Clause 26.

Honourable Members, these are rules that basically govern the management of Liquidity Credit and Settlement Risks and that is just one of the few that is outlined in Clause 26(1).

MR. CHAIRMAN.- These rules are outside the regulation that the Minister may make.

MS. T. WONG.- These are rules that the individual payments service operators have for their systems. It is not something that Government will put in place but these are rules that individual payments service providers have for the running of their systems.

MR. CHAIRMAN.- Like internal new policies.

MS. T. WONG.- Yes.

MS. L. VAURASI.- Part 7 provides an avenue for appeal so it allows any person to appeal to the Minister. If he or she or if the body corporate is aggrieved by a reviewable decision made by the Authority and so the process of appeal is laid out in Part 7.

MR. CHAIRMAN.- The Minister responsible; is it Minister of Finance?

MS. T. WONG.- The reason why it is left open is because it is more under communication in the setup in that and the running of the network, but at some stage, it may move to the Minister of Finance because it is about licencing of both the net of payment systems.

MR. CHAIRMAN.- Is there anywhere where it says that whoever Minister is used, it shall be Minister responsible for Communication or for Finance?

MS. T. WONG.- No. That is why it is left open at the beginning of that.

MR. CHAIRMAN.- Yes, you may continue.

MS. L. VAURASI.- Part 8 of the Bill provides for ongoing oversight by the RBF and the Fiji Interchange Network Authority, and like I had mentioned earlier, if you see in clause 33:

“The RBF –

- (a) regulates payments systems in Fiji;
- (b) may, at any time, adopt general standards and criteria for the conduct of the activities of payment services or the operation of systems and issue directives to a licensee with respect to the licensee's governance management operation and relations with participants.”

So, everything to do with payment systems that is regulated by the RBF.

In Clause 33(2), the Authority –

- (a) regulates the operation of the network;
- (b) may, at any time, adopt general standards in criteria for the operation of the network;
and
- (c) may, at any time, issue directives as well ...”

MR. CHAIRMAN.- So, all in all, everything that is currently in practice will all be there; the designs of the ATM; the system of pin numbers; and individual banks would put their cash in their respective ATMs. It is only the network sharing, connection to a web that will be controlled by this Bill.

MS. L. VAURASI.- That is correct, Sir.

MR. CHAIRMAN.- If that happens, that means at the moment, as I have said as an example, if you use an ANZ ATM card in any ANZ machine, you pay 30 cents from the first transaction. In Westpac, the first four are free and in Baroda, I think the first six are free, but if you use an ANZ card in a BSP machine you pay \$1.50 as a transaction fee. Those fees will also be regulated by the Authority or RBF?

MS. T. WONG.- The charging of the fees is under Clause 38 of the Bill. So the Authority may impose fees and charges or prescribe a maximum fees for those sorts of things.

MR. CHAIRMAN.- So, the Authority may prescribe a fee, which is the use of the network?

MS. T. WONG.- Yes.

MR. CHAIRMAN.- Alright, so that should regulate it.

That is the most consumer orientated clause, I think that is what consumers are worried about. Those with whom I had spoken to hope that it does not bring them to a situation where, at the moment, they have a few transactions free with their respective banks, but what happens if they are charged by the Authority on the first transaction?

That is something that individual banks have given as an incentive to, to their own customers to attract their business, the first four or five transactions are free. This is something that is probably more of a drafting/implementation issue. If the Authority decides to charge all service providers from the first transaction, then those consumers with BSP, Westpac and Baroda will turn to lose those first four transactions which are free, or if they make it free for the first four or any two/three transactions for all banks, how will that be handled? Who is the right party to address that?

MS. T. WONG.- Mr. Chairman, one of the intentions of introducing this Bill and having a network is to actually reduce those fees. So, it is to reduce the network sharing fees so that when you are using your ANZ card in a BSP ATM machine, you are not getting charged \$1.50 to do so because the network is owned and run by the Government and therefore, the banks are not taking fees for sharing their network.

MR. CHAIRMAN.- And the first few free transactions, what will happen to those?

MS. T. WONG.- Are you talking about when you are using your Westpac card at a Westpac ATM?

MR. CHAIRMAN.- Yes.

MS. T. WONG.- That is part of Westpac's own payment system network so that should not change.

MR. CHAIRMAN.- That should not change?

MS. T. WONG.- It should not change as well because Westpac is also no longer requiring you to pay for the inter-connection with other banks.

MR. CHAIRMAN.- The internal ones remain the same, it is the external ones that will be affected?

MS. T. WONG.- Well, the internal ones is up to the banks as well, we cannot regulate what the bank does internally.

MR. CHAIRMAN.- So, the scope of the Bill really is not to regulate intra-bank, that is, if I withdraw from an ANZ ATM using an ANZ card, that is not a problem but if I use an ANZ card in the Westpac ATM, that is the interbank?

MS. T. WONG.- Yes, that is the interbank.

MR. CHAIRMAN.- That seems to be reasonable. So, as an incentive, a bank might make all their transactions free if they wish to do so. Even if they do not have agreements, say between ANZ and BSP, which is the one that the Authority will regulate, that you cannot charge more than x cents.

MS. T. WONG.- Well, that is what the network is for, so it is the use of the network.

HON. RATU S.V. NANOVO.- Still on that, Mr Chairman, are those free transactions based on a monthly basis or annual basis?

MR. CHAIRMAN.- It is a monthly basis. For Westpac, there are four transactions per month that are free. For ANZ, they charge 30 cents from the first transaction; Baroda, their first six transactions are free.

MS. T. WONG.- I think my understanding on that as with the banks, it is different for each bank and it is also different for what kind of account you have with the bank. So, depending on what kind of account you have it depends, whether or not you can withdraw at all from particular accounts.

MR. CHAIRMAN.- That is understood then.

HON. RATU S.V. NANOVO.- So at the end of the day, Mr. Chairman, this will be beneficial mostly towards customers?

MR. CHAIRMAN.- Consumers, yes.

HON. RATU S.V. NANOVO.- That is the main target?

MR. CHAIRMAN.- Yes. As we had heard earlier, that what respective bank does for its own customers, that is their business. So, if they want to attract more customers, then say first 10

transactions are free for this bank or charge five cents, 10 cents, or all transactions are free. However, as soon as you use your bank's card in another ATM, that is regulated by the Authority.

You may continue.

MS. L. VAURASI.- Mr. Chairman, with regard to ongoing oversight by the RBF and the Authority, there are also reporting and disclosure requirements and that can be found under Clause 34 where a licensee would be subjected to reporting and disclosure requirements as determined by the Authority. However, information that is obtained by the Authority will not be disclosed to any other person, except for reasons outlined in Clause 34(2).

MR. CHAIRMAN.- Like the companies requirement where the licensee must submit to the Authority information and they will not disclose it, it is only probably to do with the information regarding the number of transactions, the fees they charge, et cetera, but for competition reasons they will not give it to other people.

MS. L. VAURASI.- That is right, except for those reasons outlined in paragraphs (a) to (d). So, for example, if the court compels the disclosure of certain information, then that information will be disclosed by the Authority.

Also under Clause 35, the Authority has the power to examine records.

Under Clause 36, licensees are required to retain records that have been obtained by them during the course of their operation and administration for a period of seven years, and this is also a requirement under Section 8(3) of the Financial Transactions Reporting Act 2004.

Mr. Chairman, if you look at Clause 36(2), it says that the retention of records may be by electronic means or in accordance with any other written law.

Similar to the disclosure of information, Clause 37 deals with the use of customers' information, so aside from the information belonging to a licensee, this is information belonging to a customer so no director, manager, officer, employee or agent of any payment service provider, so essentially anyone employed by the licensee is to disclose the information of a customer, except again for the reasons outlined in Clause 37(a) to (e). For example, again if the court compels the disclosure, then that payment service provider licensee will then have to disclose.

Ms. Wong had discussed the issue of fees and charges under Clause 38. Ultimately, the network which interconnects the payment systems of payment service providers, at the end of the day they will have to settle their accounts. So, that is what Part 9 provides for.

MR. CHAIRMAN.- Can you elaborate further on Part 9? This is something that seems technical to us - Settlement, Netting and Finality of Payments. What payment are we talking about here? It says, and I quote:

“Every participant to a system must—

- (a) open and maintain settlement accounts on the books of the Authority or a licensed settlement system operator, including the maintenance of minimum balances, on such terms and conditions as the Authority or licensed settlement system operator may specify;

HON. B. SINGH.- At the closing of business every day, there is a settlement they do and what they call ...clearance – they are clearing.

MR. CHAIRMAN.- That is something with the number of transactions or cash transactions?

HON. B. SINGH.- No cash transactions, they settle on bank cheques and they interchange with RBF's presence.

MR. CHAIRMAN.- At the moment, there is no requirement to have that settlement for ATM cards, by the coming into effect of this Bill, now banks should be required to do settlements for those electronic transactions as well.

HON. B. SINGH. - Yes, previously it was for cheque clearance only, currently there is for cheque clearance only.

MR. CHAIRMAN.- Only clearance?

HON. B. SINGH.-Yes.

MS. L. VAURASI.- Yes, that is right Sir.

MR. CHAIRMAN.- What do the banks have to say on that, added work for them? Are they happy to do that?

MS. L. VAURASI.- Well, banks like ANZ, BSP and Westpac at the moment currently they inter-operate, so for example if you use your Westpac bank card, you can use it on an ANZ ATM machine and so at the end of the day, they still need to settle, so that is what they are currently doing anyway.

MR. CHAIRMAN.- Alright.

HON. B. SINGH.- Just for the purpose of court proceedings, in case of a fraud how the evidential purpose disclosures

MR. CHAIRMAN.- I was saying that something that has happened to all of us recently, like someone uses your card and a scam without you knowing money has been withdrawn. Who is responsible for that? Is that your question? I think that is the individual banks problem, is it not?

HON. B. SINGH.- And the disclosures too, for evidential purpose, the courts by getting a court order will allow you to get access to the information but using interchangeable bank cards, who will be called in for evidential during evidence in court?

MR. CHAIRMAN.- You mean, who do we subpoena to come and give evidence, if there is a scam?

I think the individual banks will still be responsible for that. The network, the air time, if I may put it, that is what the Authority regulates. If something happens to an individual bank account,

it is the responsibility of that individual bank, is it not? If it is a visa card fraud, it is Visa's problem, not the authorities.

MS. T. WONG. Say, for example, if there is a transaction on your bank statement at using a particular ATM. It is that particular bank's ATM that you will need to get the evidence from to say, who was using that account, maybe that might have a camera footage in that particular bank where you get the information from.

MR. CHAIRMAN.- Currently, all the ATMs have a little cameras installed up there, they will see your face and the amount of money you have taken out, so that will be still recorded in the bank, not by the Authority.

HON. B. SINGH.- My question is, if I have an ANZ account and someone uses my account to withdraw from BSP, the warrants, will subpoena ANZ or we will get very little information because we have seen disclosures, we are not supposed to exchange disclosures or something on disclosures.

MR. CHAIRMAN.- That information, if I am reading it right, that disclosure is what the Authority requires, if the Authority requires you to provide your settlement statements and your number of transactions, that the Authority will not disclose, but any other activity that is outside the Authority's requirements, that is not affected. So, someone has camera footage of someone's stealing from your ATM, you still will be able to access that.

If you look at 34(1) and I quote: "A licensee is subject to reporting and disclosure requirements as may be determined by Authority."

So, the Authority determines that you disclose the number of transactions and the amount of dollars that have exchanged hands every month, that is something that the Authority will not disclose. However, if the courts order the bank to disclose in a fraudulent case, then that information is outside this boundary.

MS. L. VAURASI.- Part 10 essentially is the miscellaneous part: "Any dispute between a payment service provider or payment system operator will be referred to arbitration under the Arbitration Act" and that is under Clause 42 of the Bill on page 20.

MR. CHAIRMAN.- When this payment service provider and a participant, the payment service provider is the bank and the participant is who?

Payment service provider means any entity providing payment services and a participant or party means "a person who is recognised in the rules of a system as eligible to exchange, clear and settle through the system with other participants either directly or indirectly."

The participant seems to be the bank, individual banks and EFPTOS operators. Payment system provider means entity providing payment services, what is the difference?

MS. L. VAURASI.- Sir, with regards to your question on the meaning of 'participant', in the context of clause, 42 a participant would be a customer, for example. So, if there were to be a dispute

between a payment service provider such as a bank and a participant who is a customer. So if you look at the definition of participant, it is a person who is eligible to exchange, clear and settle through the system with other participants either directly or indirectly so generally using the payment services of a payment service provider.

MR. CHAIRMAN.- Just like any consumer, a participant is a consumer?

MS. L. VAURASI.- Yes.

MR. CHAIRMAN.- And payment system provider is the entity, that is the retailer, the banks.

MS. L. VAURASI.- Clause 43 may address the Honourable Member's question earlier with regard to customer complaints and disputes.

MR. CHAIRMAN.- It will be taken care off by Arbitration.

MS. L. VAURASI.- Sorry disputes will be referred to Arbitration under clause 42 but under 43, with regard to customer complaints. If a customer aggrieved he or she may lodge a written complaint with a customer's payments service provider, so you would have to go through your payments service provider.

MR. CHAIRMAN.- Not to the Authority, to the provider.

MS. L. VAURASI.- To the provider, that is correct.

MS. T. WONG.- And the provider has the ability to then seek information from the Authority or other participants under Clause 43(2).

MR. CHAIRMAN.- So it is just like, if I am still charged \$8.00 per transaction being a HFC customer, that is the complain that I will lodge with the service provider to the bank first and then they will seek information from the Authority. Is that what it is intending to do?

MS. T. WONG.- So, I think the Honourable Member's question was in relation to what if he uses the account and you have been charged the wrong fee from using someone else's ATM. So in that situation, if you have a HFC card and you are using it at an ANZ ATM and someone else's and there is some sort of incorrect transaction on your card, like it is not you who did that transaction. Then you make the complaint to your bank so in that case to HFC, and HFC will source the information and under Section 43(2), obtain information from the Authority and from ANZ, for example, as to the detail surrounding that transaction.

HON. RATU S.V. NANOVO.- Still on that, Mr Chairman, whilst they are doing that inquiry, will they charge the customer again for any service fee?

MR. CHAIRMAN.- I do not see any request for payment in there but probably the drafters can answer your question. If a customer queries with the Authority, is there any applicable fee or any fees for appeal, et cetera?

MS. L. VAURASI.- Sir, the customer queries with the bank and the bank may require information from the Authority.

MR. CHAIRMAN.- You mean the Authority charges the bank or the bank charges the customer/client?

MS. L. VAURASI.- Sir, with regard to Clause 43 on customer complaints, there are no fees surrounding that particular provision in the Bill.

Under Clause 44, it states that until such time the members of the board (the board being the governing body of the Fiji Interchange Network Authority) are appointed by the Minister, the Steering Committee which is a body that is established under the reform of ITC Decree 2013, will perform the functions and exercise the powers conferred upon the Fiji Interchange Network Authority under this Bill.

So, that is an interim measure until such time the members of the board are appointed. The Steering Committee is basically the Committee that is responsible for ITC matters.

MR. CHAIRMAN.- The Steering Committee will be appointed on an *ad hoc* basis?

MS. T. WONG.- The Steering Committee already exists, it is the Committee that is established under the reform of the ITC Decree 2013.

MR. CHAIRMAN. - Thank you.

MS. L. VAURASI.- The other provisions in Part 10 – Miscellaneous, are standard provisions, for example, the making of regulations by the minister responsible for the administration of this Bill, but in particular, Clause 47 and I think this would answer one of the questions that was raised by the Committee in your letter with regard to existing agreements between banks.

It states in Clause 47(2) that any agreement entered into between or amongst payment service providers for the interconnection of payment systems prior to the commencement of the Act or prior to the designation under Section 3 that are still valid, those will cease to have legal effect upon the commencement of the Act or upon the designation by the minister.

Ms. Wong had taken the Committee through Clause 48 with regard to the transitional provision, so within six months from the commencement of the Act, banks will be required to comply.

Clause 49 is just the limitation of liability provision and Clause 50 is to do with the enforcement of the provisions of the Act.

MR. CHAIRMAN.- If you may look at Clause 45, the minister may, following consultations with the Authority, make regulations. Are these regulations ready?

MS. L. VAURASI.- These regulations have not been drafted because the Bill has been tabled in Parliament and referred to the Standing Committee. The provisions of the Bill are still not finalised as well, so until such time these provisions are finalised, those regulations will be drafted.

MR. CHAIRMAN.- So, probably some of the issues that we have raised this morning could be addressed in the regulations?

MS. L. VAURASI.- That is correct, Sir.

MR. CHAIRMAN.- You may continue.

MS. T. WONG.- In conclusion, regarding the purpose of the Bill, we have already discussed that it is in relation to setting up an Interchange Network between banks because that is what Clause 3 refers to, but the intention is that in the future, this network will not only be utilised by the banks. That is why we had referred earlier to FNPF, Digicel and Vodafone, so those other participants may also choose to participate as part of the network to offer payment systems. For example, you could get money directly from FNPF without having to use as is currently the case, the payments made through one of the banks.

The idea of the network is just that other people want to join the network, they will be able to join the network to allow direct payment systems throughout the whole of Fiji. So, that could directly be with some of the authorities with FNPF, Digicel, Vodafone and those sorts of entities that could also join the network in terms of the payment system, therefore, could not have to use the banks and get charged with bank fees to make payments to the people.

MR. CHAIRMAN.- It is like, for example, if you use the current system of 'm-paisa' or the Digicel equivalent, it also uses a network.

MS. T. WONG.- I think they use one of the banks network.

MR. CHAIRMAN.- So, all these will now be linked to the national network?

MS. T. WONG.- Yes, the opportunity is open for Vodafone and Digicel to join the network directly and not have to go through using one of the banks. So, as we are saying before, it takes away those agreements as separate agreements that the banks have in terms of offering their payment service and their switch abilities. That is one of the other reasons as well for the Bill. When it first commences, it would not be applicable to those other entities but the ability will be there for those other entities to then sign up and be part of the network.

MR. CHAIRMAN.- Which means that all the other new players that may come in (if there is another mobile company or another bank that comes in), they will have to go to the Authority to have a licence to operate their individual ATMs and EFTPOS machines?

MS. T. WONG.- That is right, they have the ability to go and join the network directly without having to make an agreement with all the other individual banks that currently have their monopoly.

MR. CHAIRMAN.- The rational seems to be that currently, you have individual players that regulate themselves in terms of fees and charges. When the Act comes into force, the Authority will regulate the use, the charges and the inter-bank relations as far as the online network is concerned.

The individual operations of the banks will remain the same on how they deal with their own customers but there is also a space for the banks to allow their customers - ANZ to ANZ and BSP to BSP, et cetera, to have a different fee structure, it could be zero dollars or it could be 10 cents but once it comes to inter-banks, that will be regulated by this Authority.

MS. T. WONG.- You said the network will be regulated by the Authority because the Authority obviously has to maintain the network as well?

MR. CHAIRMAN.- Yes.

MS. T. WONG.- So, you may find that some of the banks currently have agreements in place and we have had feedbacks from some of the banks who have their own separate agreements in place and are not very reluctant on issues regarding this Bill because once this Bill comes into force, they will no longer have their own individual agreements and they cannot restrict new players from coming into Fiji and using the network.

MR. CHAIRMAN.- So, it discourages anti-competitive behaviour between service providers and saves the smaller players?

MS. T. WONG.- It saves the smaller players and will hopefully benefit, as the Hon. Member had referred to before, the consumer will ideally get charged less fees for using other banks' ATMs and infrastructure.

MR. CHAIRMAN.- On that same issue, the Authority will levy probably a licensing fee to the individual banks for joining that network. Currently if the banks are regulating themselves via agreement, they are not paying fees to anyone or they might have a fee structure or charge structure between banks. Once this is regulated, all that money will now be paid to the Authority, which is a new body, which then cuts into the income of individual banks.

MS. T. WONG.- However, the banks will no longer have to run their interchange between the banks so...

MR. CHAIRMAN.- Right

MS. T. WONG.- They are not paying for that, they said "pay your licence fee to the Authority."

MR. CHAIRMAN.- Their expense here will be minimised. They do not have to worry about their networks, that will be paid as a fee to the Authority and they will run it for them.

Hon. Nanovo, do you have any question?

HON. RATU S.V. NANOVO.- Thank you, Mr Chairman. For supermarkets and hotels, they do provide EFTPOS machines, will they be termed as "service provider" or ...

MS. T. WONG.- Sir, the EFTPOS machine - is that what they are called?

MR CHAIRMAN.- These are banks machines.

MS. T. WONG.- It is the payment instrument and that is from the bank so the hotel itself is not a payment service provider, because the payment service provider is the bank that provides them with the EFTPOS machine.

MR. CHAIRMAN.- Right. That question that we raised last week, you will still be having five or six machines there; one for BSP, HFC; and one for this and that or the alternative would be just to have one machine but because the Authority will now regulate the fees and charges, you can

have one and use it to provide service to your customers. The only issue will be, for instance if say, for example, Baroda says you have the first six transactions free and a particular hotel has only ANZ machines, then you do not have that free transaction.

MS. T. WONG.- I think that free transaction thing is not only in relation to ATM withdrawals, I am not sure.

MR. CHAIRMAN. - Yes

MS. T. WONG.- Does it also apply to EFTPOS?

MR. CHAIRMAN.- That I am not sure because my bank does not give me anything for free, only cash withdrawals, so no purchase.

MS. T. WONG.- So it is not going to be an issue for EFTPOS then.

MR. CHAIRMAN.- What about credit cards? Credit card transactions will also be regulated?

MS. T. WONG.- Sir, a credit card transaction is a payment service and it is a type of payment. In that same way – debit or credit, it is all covered by the network.

MR. CHAIRMAN.- Yes, and their respective 3 per cent levies or 5 percent levies that the banks charge, that is separate?

MS. T. WONG.- That is under separate legislation – is that right?

MR. CHAIRMAN.- Alright that will remain. The merchant, what I understand is that merchants like restaurants and hotels charge 3 to 5 percent, that is something that they pay a service fee to their own banks and they said that this is a charge that the bank levies then. With the coming into force of this Act, if that charge is regulated, then probably it will affect the 3 percent to 5 percent charges.

MS. L. VAURASI.- Sir, I am not sure about the 3 to five percent, but if you are referring to the 3 percent credit card levy, that is the levy that is paid to FIRCA.

MR. CHAIRMAN.- There is a credit card levy of 3 percent that is paid to the Government, that is on the balance as on 16th and 17th of every month, but for every transaction the merchants charge or the credit card service fee. It is a notice outside all the retailers, it is not regulated.

MS. L. VAURASI.- Unless it is the credit cards levy and assuming that is something that is internal that would be something between the banks and the customers.

MR. CHAIRMAN.- Yes, it is an internal thing. Credit card levy is something that is charged on a balance, your outstanding balance at the end of the month, the credit card period, but individual retailers have a notice posted outside their shops that every credit card transaction attracted 3 percent service fees. It is the individual thing, right.

HON. B. SINGH.- Inaudible.

MR. CHAIRMAN.- It discourages members from using plastic cards. It came back because the RBF stopped the practice and the merchants stopped customers from using credit cards, so RBF said "alright, you can levy it."

HON. B SINGH.- Why?

MR. CHAIRMAN.- No, the larger merchants like Carpenters, they do not charge. They charged 3 percent on individual transaction. If you swipe your credit card twice, you get 3 percent on the purchase itself, 3 percent of the value of the purchase, plus the 3 percent, most hotels do that too. However, Carpenters does not do it, but that is something separate, that is an individual arrangement between the merchant and their bank, because I was told from my investigation that the bank charges the merchant 3 percent of the service fee every time a consumer swipes a card. So, that is why they are passing it off to the consumer.

At one stage, the RBF stopped that and merchants stopped accepting credit cards at all. So, the RBF went back on their word and said "Alright, now you charge this." This will be a question for RBF, is it not?

MR. CHAIRMAN.- Just note it down for the RBF. Something that is a consumer issue as well.

HON. B. SINGH.- Mr Chairman just a question to the drafters. Like BSP also has a debit card which you could use while travelling abroad. You go to an ATM machine, withdraw cash and there is a denomination, depending on which country you are in. Which fees will apply there?

MS. T. WONG.- Our networks are only designed for inside Fiji, if you are talking about international transaction then that is up to the individual banks.

MR. CHAIRMAN.- If you are carrying an ANZ debit card and you swipe that card say in Israel, that is between you and your bank. This interchange network is to regulate the players in this market, interbank, finance service provider, is that right.

MS. T. WONG.- It is only within Fiji. We cannot control your fees and in charge of international transactions.

MR. CHAIRMAN.- If the merchant there asks for 3 percent or 5 percent or 10 percent, you and your bank are responsible for that.

HON. B. SINGH.- Sir, I am asking about the Activity Fee. Normally in the States are the Activity Fee.

MS. T. WONG.- Sir, that will be decided by your bank and other bank that you are using over in the States and in any other country.

MR. CHAIRMAN.- If you use your ATM Card in ANZ here, you are charged 30 cents. If you use the same ATM card in Vanuatu or PNG where they allow it, you are not charged 30 cents, they will charge you \$5.00, so do not go to these countries.

MS. T. WONG.- So if you are using your cards overseas, whatever international transaction fees your bank is going to charge you, plus any transaction fee that the bank in the other country charges you probably will get charged both.

MR. CHAIRMAN.- That network is operated in that individual country, it depends on what arrangement that network has with this network or this bank because remember, the bank is only accessing the wireless network here. Their inter transactions between the bank is only using the network but charges will not be regulated by this Act, it is only for the internal charges here. This is something again to be questioned to the RBF. You can note it down and continue with your submission.

MS. L. VAURASI.- There was a question with regards to the need for the Office of the Auditor General to audit the funds I believe of the Authority or the accounts of the Authority. We thought we will include the Office of the Auditor General because public money is involved.

MR. CHAIRMAN.- Yes, I noticed that when we went through the section after we had drafted the questions, that allocation to operate, the Authority will be made from the budget. If that happens, it is public money and that is why there is a requirement for the Auditor General.

So, we can now come to the questions that we had.

The first question has already been answered in Section 42, the existing agreement will cease.

MS. T. WONG.- Sir, that Section 47(2).

MR. CHAIRMAN.- Section 47(2). It says:

“Any agreement entered into between or amongst payment service providers for the interconnection of payment systems prior to the commencement of this Act or designation of such payment service provider under section 3(1)(b)(i) and which remains valid and in force immediately prior to the commencement of this Act or the date of designation, ceases to have legal effect and is deemed to be void upon commencement or the designation.”

So once the Act comes into force, the individual agreements between banks will cease to have an effect.

Who will finance the installation of the machines and who will be responsible for the maintenance? I think that is also answered. Individual banks will be responsible for their finance and machines in any event. It is the network, the tangible machines when they connect to the intangible network, that is what the Bill regulates, not how the individual machines are operated at base.

MS. L. VAURASI.- That is correct and that network is implemented by the Authority.

MR. CHAIRMAN.- Why is there a need for the Office of the Attorney-General? I think that is also answered.

What are some of the institutions that can be exempted under Section 24 of the Bill? If we look at Section 24, it says and I quote:

“If, a financial institution is licensed under the Banking Act 1995, the Authority may, with the approval of the Minister, in writing, exempt the financial institution from complying with a requirement under this Act.”

I think this is something that is happening currently, FNPF usually charges a certain amount or fee for withdrawals but by the permission of the Minister, they were able to exempt it for this particular period, the next 60 days. Is that something that is similar to that – that the Minister may exempt certain entities?

MS. T. WONG.- No, the intention of Clause 24 is that, to the extent that financial institutions may be licensed under the Banking Act, some of the requirements of this Bill may be the same as the requirements under the Banking Act, for example, the financial transaction reporting requirements, they are already required to do that under the Banking Act. So to that extent, they may be exempted from that.

MR. CHAIRMAN.- To avoid duplication?

MS.T. WONG.- Yes, to avoid duplications.

MR. CHAIRMAN.- Clause 24 is understood. If some financial institutions have already registered under the Banking Act and have submitted certain documents or requirements, when they are obtaining licences under this current Bill or Act, they will not be required to file those papers again, so that is the exemption.

The next question; what are the consequences of this legislation in relation to those banks, which have only a few ATMs? I think that is already answered. Even if we have one ATM, you are still contracted to the network. Our understanding at that time was, that a bank - a smaller player like HFC or Bred Bank might just have one ATM somewhere in the island and then ANZ extends so they do not have to put any more ATMs. They just allow their customers to use the ANZ ATMs without having to incur the expenditure of installing their machines there. I think that position still remains, we will still need some clarifications on that. If you do not need to have that, then your individual ATM machines in the outer islands is riding on some other banks backs. ANZ puts an ATM and everyone is using that.

MS. L. VAURASI.- That is correct, Sir, and then ultimately greater access for customers.

MR. CHAIRMAN.- If the banks do wish to have their individual machines, that probably is an incentive to their own customers. If they give them 10 transactions free, that will still encourage them to use the HFC machine or Bred Bank machine. If you want to invest in the outer islands or in remote places, if you want your customers to be with you, probably you will still go and install a machine there to give them free transaction as compared to them riding on ANZ Bank's back, they will end up paying. So, it is still not anti-competitive, we were thinking that it will be anti-competitive but it does not seem like that.

The consequences would be that it depends on the individual banks. If they want to have ATMs to satisfy their customers or ride on the backs of the larger players. That is only an informal term but that is how it is understood.

What activity are we regulating? Are we regulating the credit card transaction? I think that is what you have already answered. There was a question that I already had; "Who puts the money in the ATM? I think that is already answered because individual banks will use their own.

Is there any further submission from you?

MS. T. WONG.- Not at this point, Sir, but if you like further clarifications, we would be able to assist.

MR. CHAIRMAN.- Honourable Members, do you have any further questions? Secretariat, have we missed any questions? I think we have noted down all the questions.

RESEARCH OFFICER.- So, it is not compulsory for any financial institution or service provider coming in to join the network, if they wish not to?

MS. T. WONG.- I think it is compulsory. All banks have to be part of the network.

RESEARCH OFFICER.- If I am a new player coming into the market, I want to run a standalone network for my customers, I do not wish to share, is that possible?

MR. CHAIRMAN.- You will be paying \$1,000 a day.

MS. T. WONG.- That means your bank....

RESEARCH OFFICER.- Like I am prepared to compete with the existing players.

MS. T. WONG.- That means your customers cannot pay for anything at a supermarket and you cannot use other people's EFTPOS machines. That means your customers cannot use any other ATM machines.

RESEARCH OFFICER.- I am just asking if someone comes in and does not wish to be part of the network.

MS. T. WONG.- Sorry, when you say you are a new player, are you referring to yourself as a bank?

RESEARCH OFFICER.- Yes, if it is a bank or any....

MS. T. WONG.- If you are a bank and you decide not to, you would be committing an offence.

RESEARCH OFFICER.- Thank you.

MR. CHAIRMAN.- If you are a body corporate, you will be charged \$150,000 in fine and \$5,000 for each continuing day. If you are natural person \$30,000 and an additional \$1,000 which means that if you are a new retailer and you have decided to have your own network like the MH 'Flash and Gain Card' and not be part of this, you will be fined.

That brings me to the question that comes to my mind, some of these service providers have cards like the Mobil Cards, MH Flash and Gain Cards, Tappoos, Jacks and Prouds Cards, they have an internal network themselves where they share the points. What do they use, will they be required to register as well?

MS. T. WONG.- Sir, with the commencement of the Act, it will only apply to banks, first of all.

MR. CHAIRMAN.- Who are dealing with finances.

MS. T. WONG.- But potentially at a later stage, those payments service providers that are designated by the Minister but at this point, it applies firstly to banks.

MR. CHAIRMAN.- Yes, especially to the banks' EFTPOS and ATM machines around the country, those are the first regulated ones. Again, that is something we can put to the RBF, Kalo.

What happens to the individual network operators because I understand you can use the MH Flash and Gain Card in any MH Retail Store around the country, and update your points through a network. I do not know what internal network they use. It does not deal with cash, is it?

MS. T. WONG.- No.

MR. CHAIRMAN.- But it has the equivalent, the effect of having a cash transaction because if you do transactions, you get a discount. Yes, it has the effect of having a money transaction.

MS. T. WONG.- Is that a payment service?

MR. CHAIRMAN.- Yes, it is a payment service.

MS. T. WONG.- It is classified as such in the definitions so that at a later point in time, it can be incorporated under Clause 3(1)(b). It is designated as such.

MR. CHAIRMAN.- Likewise, the Jacks, Tappoos and Prouds Cards and all the other cards, Mobil and all, you accumulate certain points. It actually has the effect of a money transaction, you get a discount for that or you get a free gift.

Secretariat, that is something we will put to the RBF, to see how they are factored. Then we can actually also invite one of those retailers to come and see, and that would be after the RBF clarifies. If they are not affected, then we do not have to worry about it but it seems to me it is a bit of an iffy or grey area. There are some transactions that have the effect of your money transaction but are not essentially money transactions, on the face of it.

Alright, is there any further questions or comments? Ms Wong and Ms. Vaurasi, any suggestions and comments?

MS. L. VAURASI.- No, Sir.

MR. CHAIRMAN.- What we will do is, we will hear the submissions throughout this week until Friday, and if you have any further questions, we will email you written questions, and if need be, we will invite you again because as I understand, there will be a lot of questions from the public. People were asking me these questions, even when I was doing the disaster relief, they were asking me about what is happening to the ATM law. I told them; "Do not worry about it, we are looking into it." There might be some new questions coming up and we will definitely email you those.

If there are no further questions or comments, I thank Ms. Wong and Ms. Vaurasi for your presentations this morning. It is an important area of law, as I have said, because we have to submit a report and a draft amended version to Parliament in the April session, so we are a bit pressed for time.

Before we break for tea, and I will invite you ladies for tea as well. Are there any drafting issues here, Ms. Vaurasi? Are there any issues about drafting that you have picked up?

MS. L. VAURASI.- We have in fact picked two issues out, and if you would like us to raise them now we can deal with them.

MR. CHAIRMAN.- Yes.

MS. L. VAURASI.- Mr. Chairman, there is a typographical error in Clause 7(g). If the word 'on' after 'determine' can be removed so that it reads, '...determine the settlement bank...'

I think the other issue that we would like the Committee to perhaps consider is with regards to Clause 9, the vacancies of members of the Board of the Fiji Interchange Network Authority. It says in Clause 9, and I quote;

"Any vacant office under section 8(7) must be occupied in the same manner in which the appointment to the office was made, and every person appointed under this section must hold office for the remainder of the term for which the person's predecessor was appointed."

So, if the office becomes vacant and another person fills that office, that person holds office for the remainder of the term.

The problem we see now is that in Clause 8(7)(c), the office of a member of the Board can become vacant if the member completes the term. So then the remainder of the term would then become sort of redundant.

MR. CHAIRMAN.- Clause 9 probably applies to (a), (b) and (d) only. It will automatically not apply to (c), because if someone completes the term, there is no balance, so I think it follows.

MS. T. WONG.- Sir, I do not know whether you want to exclude specifically sub-section (c).

MR. CHAIRMAN.- Sorry. It does not seem to apply to sub-section (c).

MS. L. VAURASI.- So, we were wondering if the Committee would like to specifically state, with the exception of Clause 8(7)(c) or where it says, 'any vacant office under Section 8(7) to be specific only to (a), (b) and (d), for clarity.

MR. CHAIRMAN.- It will be alright for clarity, but I do not think it is necessary because once it says, '...completes a term of office and is not reappointed, the other, following on Clause 9, the remainder of the term does not arise because the term is completed. But, if it is a drafting issue, you can, for clarity say, 'any vacant office under section 8(7) (a), (b) and (d) must be occupied in the same manner, because (c) becomes redundant.

MS. T. WONG.- So, under Section 8(7) (a), (b) and (d).

MR. CHAIRMAN.- Yes. So, you wish to add that one?

MS. L. VAURASI.- It is entirely up to the Committee, but for the purposes of clarity it may help those reading the law in the future.

MR. CHAIRMAN.- I think the only person who will raise a fuss about it is Richard Naidu, everyone else is fine.

HON. B. SINGH.- Mr. Chairman, on item 1.3 on page 22. The last sentence reads, and I quote:

“...It would an offence...”

MR. CHAIRMAN.- It would be an offence. The word ‘be’ to be inserted before the word, ‘an’. Is that right?

MS. L. VAURASI.- That is correct. That is also a typographical error. Thank you, Hon. Member.

MR. CHAIRMAN.- Just two general comments I have. Firstly, on the Explanatory Notes, if it is more specific and a bit more elaborate, it will be easier for the Committee. I have noticed that in a lot of Bills we are getting, if one looks at page 23, item 2.1.0, it says, and I quote:

“Part 10 of the Bill provides for miscellaneous provisions”.

We know that it provides miscellaneous provisions, but if it could be more elaborate. For example, what sort of things it covers in future bills that come to us.

Also, on item 2.9, it reads, and I quote:

“Part 9 of the Bill provides for the settlement of accounts, netting and finality of payments.”

We know what it provides for, but if you could elaborate more, because when the members of the public appear before the Committee, it is easy for us to explain.

Secondly, if there is any drafting issues like capitals or small letters, et cetera, it could be brought up to the Committee earlier, because remember in the Companies Bill that we did, after all was drafted, approved and presented, we then found that there were about 300 errors mostly dealing with capitalisation, et cetera. Those things actually caused a bit of a media uproar too, saying, “what was the Committee doing after two months and they still came up with 300 errors?”

So, these are some of the things that actually gets embarrassing for the Committee. If it could be brought to our attention earlier, even before the last day it is presented, we can correct it as we had done in the past.

Those two points generally for all bills. Firstly, we need the background. Even though the Explanatory Notes do not form part of the Bill, it is easier for us to explain to the members of the public when they appear. Secondly, those little errors or drafting issues, if it could be brought to our attention much earlier.

Any comments on that?

MS. L. VAURASI.- Sure, Mr. Chairman. Those points are taken into account. Thank you.

MR. CHAIRMAN.- Alright, if there are no other questions or comments....

MS. L. VAURASI.- There is one other issue, Mr. Chairman, that we would like to raise with regard to Clause 36(2). If the Committee likes, it could include the word, 'or' after '....electronic means...' so that it reads, and I quote:

"The retention of records under subsection (1) may be retained by electronic means or in accordance with any other written law."

MR. CHAIRMAN.- Alright. So, that will make it wide. You can either have paper records, electronic records or video records?

MS. L. VAURASI.- That is right.

MR. CHAIRMAN.- Any other drafting issues? However, as advised earlier, if you pick any other drafting issues, please alert us as early as possible?

With that again, please thank Ms. Wong and Ms. Vaurasi for their appearance today. If you have any other issues arising in the course of the week and the week after, we will definitely raise it with you through email or we will also ask you, permitting on your time, to appear before us and explain.

We have RBF at 10.30 a.m. tomorrow and Banks at 2.30 p.m. These are two important submissions and if your team could be here for those two sessions as questions that may arise we can sort them out during that time. I know the banks will have some issues and also the RBF, if that is possible. Since you two have taken us through, it will be pertinent if you are also here. If you wish, I can write to the Solicitor-General for his permission.

(Inaudible)

We have a copy of the Association of Banks' submission here and we will give you a copy. They have raised some questions about the bank, so you can be prepared for those questions.

MS. WONG.- Honourable Chairman, unfortunately because of the late notice, for tomorrow's 10 o'clock session, we will have to see if we can make some arrangements to try and come because at this stage, both Ms. Vaurasi and I are unavailable, but we will try and make some arrangements to be available.

MR. CHAIRMAN.- Thank you. We will give you copies of their submissions anyway, so that you can read through it. However, if you are unable to be present during the RBF submission, we will give you the Hansard notes.

On behalf of the Committee, we thank you for your attendance and now invite you for tea.

Honourable Members, we will reconvene after tea to look through the Minutes and the submissions which we have received.

The Committee Interview adjourned at 12.02 p.m.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS, HELD IN THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS ON WEDNESDAY, 2ND MARCH, 2016 AT 10.30 A.M

Interviewee: Reserve Bank of Fiji (RBF)

In Attendance:

- | | | | |
|----|---------------------|---|-----------------------------------|
| 1. | Mr. Barry Whiteside | - | Governor |
| 2. | Mr. Ariff Ali | - | Deputy Governor |
| 3. | Mr. Vereimi Levula, | - | Chief Manager |
| 4. | Mr. Mervin Singh | - | Manager, Corporate Communications |
| 5. | Ms. Wati Seeto | - | Manager Legal |

MR. CHAIRMAN.- Good morning, ladies and gentlemen, members of the public and members of the Secretariat and the media.

I welcome the Reserve Bank of Fiji (RBF) Team who are here today to present on the Fiji Interchange Network (Payments) Bill 2016, and I invite the members of the Team to approach the table.

We are fortunate to have a very high-powered delegation this morning from the RBF, starting with the Governor himself, Mr. Barry Whiteside; Mr. Ariff Ali, Deputy Governor; Manager Corporate Communications, Mr. Mervin Singh; and Ms. Wati Seeto, Manager Legal and a fellow practitioner.

As Members would know, and as I announced earlier, most of our teams are still out in the field providing relief work after the disaster struck us in the West (and we are also part of that) but we have to have the economy and the country running and therefore, this Bill has to be scrutinised by this Committee and to be presented in Parliament in April.

For that, I have summoned my Committee to continue with the Parliamentary work while relief efforts are going on, and I believe every citizen is also involved in that in one capacity or the other.

Without further ado, I now request the RBF Team to make their presentation.

By way of a brief background, yesterday we heard from the Drafters of the Bill, that is the office of the Solicitor-General, and there were some questions that we put to them and they have referred those questions to the RBF which we will be asking you as we go along.

We understand that the RBF will be the main custodian of this Bill and together with the Solicitor-General's Office as a regulatory body and we would like to now hear from the RBF on their views on this Bill.

MR. B. WHITESIDE.- Thank you, Mr. Chairman. I guess, like all Fijians, we are devastated by the loss of life and destruction that is caused by *Tropical Cyclone Winston* and we at the Bank are doing all we can to assist our people to recover, both through policy and personal contributions.

Honourable Chairman, Deputy Chair and Members of the Standing Committee on Justice, Law and Human Rights, *bula vinaka*, good morning, and thank you for the invitation to talk to you today and to share our thoughts on the Fiji Interchange Network (Payments) Bill of 2016.

The RBF sees the implementation of a National of Fiji Interchange Network (sometimes referred to as a National Switch) as an important development in our financial system. Such a network is designed to allow the many forms of payment systems we currently have operating in Fiji, and which we may develop in the future to electronically link or talk to each other through one national medium.

This legislation therefore, is being established to govern the activities of the proposed national interchange network and all those parties who will become members by virtue of operating a payment system, which by necessity will need to be licensed to access this interchange. It also specifically establishes an Authority that will have the oversight, supervisory and regulatory powers over the interchange, its members and its activities.

Honourable Members, it is important to define what payment systems are and what an interchange is, in order to understand how they work and how they are linked. This can be done best by taking one or two easy examples and working through them.

Your typical ANZ or (Access) debit card is a form of payment system. All the banks in Fiji have their own debit cards which are similar payment systems, designed for their own customers. Your visa card or master card are payment systems. Mobile money such as M-PAiSA and Digi-Money are payment systems. All these allow us to make payments and money transfers, and as befits modern technology, these payments are all done electronically.

Cash is of course the most basic of payment systems going back in history. Personal cheques were also once widely used as a payment system, though less so nowadays. If you go back far enough then Barter may also be considered.

The RBF operates a payment system only for commercial banks called FIJICLEAR. The system allows the banks to electronically clear or settle their balances with each other and with the RBF on a real time basis. This is also the conduit for us to manage the supply of money if policy necessitates.

FIJICLEAR is an example of a large value payments system, the name being self-explanatory, in that most payments going through are of large value. In contrast, most other systems cover retail or individual consumers catering for smaller transactions.

As I alluded to earlier, many payment systems nowadays run on electronic platforms. For instance, you can use your ANZ debit card to make bill payments and transfers at ANZ ATM machines and pay for groceries at merchants that have ANZ Point of Sale or EFTPOS machines. Because banks always look to achieve greater efficiencies, they are also keen to share the use of their machines with other banks and their customers. This is where interchange comes in. The banks create an electronic platform between themselves that allows the ANZ customer to use his card at a BSP or a Westpac ATM or EFTPOS machine.

The term commonly used by tech people to explain this is 'interoperability.' To-date, in Fiji, this sort of interchange or interoperability, while being pushed by the RBF over the years, has required the commercial banks to invest capital in ensuring their respective systems are compatible.

As of today, we see ANZ, Westpac and BSP have consumer interchange. Westpac customers also have interchange with HFC, while BSP customers have interchange with Bank of Baroda and vice-versa.

BRED Bank is still a stand-alone system with no interchange available to its customers. As a new entrant in the market, it needs to invest and ensure compatibility with other banks' systems. This can involve some considerable costs as well as long negotiations among the respective banks. The HFC Bank and Bank of Baroda customers also do not have the advantage of interchange across all banks.

With just a simple example of bank debit cards, we can see the benefit of the proposed National Switch or Interchange, as it will not limit access to customers of certain banks only. By virtue of the proposed law, all banks will be required to link in, enabling their card holders to draw cash or make payments from any ATM or EFTPOS machine throughout Fiji. It is expected that other payment systems that share similar features will also be required to obtain a licence and to link to the Interchange network over time.

Honourable Members, apart from its other roles, the RBF is responsible for the soundness of Fiji's financial system or what we term 'financial system stability'. Since payment systems form an integral part of the financial system, it is critical that the RBF has the necessary powers to approve, monitor and regulate the various payment systems.

Any breakdown in reliability, efficiency and safety of our payment systems and the delivery of payments will have critical repercussions on the financial system. By example, the failure of a particular payment system to deliver payments can have many 'down the line' issues. It could mean that transactions will not be done, companies may not be able to buy or sell their goods, individuals will not be able to receive their salaries and carry out retail purchases, Government neither would be able to receive taxes nor pay out benefits and make other payments, and customers of one bank will not be able to make payments to other banks.

This poses the question of the reliability and credibility of the payment systems, and affects the operations of commercial banks and financial markets as a whole. Where such payments are large, this can lead to instability in the financial system. This is why payment system stability is central to the oversight function of central banks, like the RBF, around the world.

Honourable Members, let me say something about payment system oversight in Fiji. At the current time, there is no specific overarching legislation governing payment systems in Fiji. In early 2000, when the RBF was contemplating on setting up its Real Time Gross Settlements System, the Bank had to resort to its powers under the Reserve Bank of Fiji Act to issue a regulation, to enable it to put this system in place. The Reserve Bank Payment and Settlements System Oversight Regulation 2004 was eventually passed and FIJICLEAR was established in 2007, with all the commercial banks licensed as members.

In 2013, the RBF started consulting with the World Bank to try to develop an overarching National Payments System legislation. These consultations involved the identification of key players, together with the necessary infrastructure and legislative framework. A number of consultations had been undertaken with industry players. This work is still in progress and we hope to bring this legislation to Parliament in the near future.

Honourable Members, the RBF is pleased to support the new legislation, and we would like to cite some of the reasons for your information:

1. This Bill is specifically for an interchange that allows for the convenience of payments to pass through a single national platform or switch. It can be clearly demarcated from the overall payment system environment that still falls under the domain of the RBF.
2. Government is investing in the network infrastructure and setting up the system. In Fiji, the current interchange example to which I had alluded to earlier has been based on bilateral arrangements between certain banks and as such, interoperability amongst banks has been an issue. Some banks in Fiji are not part of these bilateral arrangements or have limited access and as such, their systems are not interoperable. I had mentioned this in my earlier example.

I would like to add that the new entrants to the banking system will all face this problem. Total interoperability, therefore, is an issue between banks. The Interchange will bring about total interoperability and even allow a new player to have immediate access. So, the RBF is supportive of an interchange that links everyone and allows for total interoperability, thus bringing efficiency and effectiveness in payments.

3. We are also hopeful that the national switch will bring about affordability through greater volumes of transactions that lead to lower costs and lower interchange fees which will flow on and benefit the customers.
4. It is also expected that, as the National Interchange develops, it can also include new players, for example, in the digital financial services area, such as mobile network operators.

There are other key considerations that make us support this Bill. Part 6 - Section 22(c) says, and I quote:

“An application for a licence must be made to the Authority in the prescribed form and must be accompanied by –

- (c) written confirmation from the Reserve Bank that the applicant’s payment service, payment system, rules and internal policies meet the standard required by the Reserve Bank...”

This section establishes that, prior to players on the interchange being licensed by the new Authority, such players will first need to get the approval of the RBF. This provision allows the RBF to have oversight over the licensing processes and requirements by firstly approving those to be licensed according to our own standards. Without this approval, a payment service provider or a payment systems operator cannot participate on the interchange. This section allows the RBF and the Authority to work together to ensure that those who participate on the interchange are legitimate financial system providers or operators.

Part 8 - Section 33(1) ensures that the functions of the RBF over payment systems is intact. This section says, and I quote:

“The Reserve Bank –

- (a) regulates payment systems in Fiji;

- (b) may, at any time, adopt general standards and criteria for the conduct of the activities of payment services or the operation of systems, either generally addressing the totality of entities or a specific category; and
- (c) may, at any time, issue directives to a licensee with respect to the licensee's governance, management, operations and relations with participants."

These provisions establish and entrench the role of the RBF in the provision of oversight over all payment systems under this legislation. This, in itself, gives the RBF the powers to institute detailed regulations to ensure the development of both, the requirements for those that will be members of the Interchange, and those who choose not to be members of the Interchange. At this point, I wish to further advise the Standing Committee that there has been consultation undertaken between the RBF and the Ministry of Justice during the finalisation of this Bill. The RBF made its submission to the Minister for Justice in this regard, after which the key oversight requirements of the RBF were included.

Finally, Honourable Members, I wish to reiterate that the RBF is in support of this Bill to be called the Fiji Interchange Network (Payments) Act 2016. However, having said this, there are two areas that we feel need to be reinforced:

1. The robustness of the system and infrastructure. Millions of transactions will move through the Interchange. It is, therefore, extremely vital that the Interchange and its supportive technology infrastructure are completely robust to withstand the volume of transactions for which it must cater. The Interchange must allow for future adaptability, given possible future demands.
2. Board representation. The RBF, either through the Governor or the Deputy Governor, is to be represented on the Board of the proposed Authority for the sake of ensuring that the three pillars of Payments Stability, Financial Stability and Economic Stability are in place. This permanent representation, we feel, is warranted.

Again, I take this opportunity to thank the Parliamentary Standing Committee for allowing the RBF to be heard in this instance. *Vinaka vakalevu.*

MR. CHAIRMAN.- Thank you very much, Mr. Whiteside and your Team, for your presentation. We have been privileged to hear from you before on other matters as well, and in this particular Bill which, in fact, provides for the RBF to regulate certain areas. We have certain questions that we have formulated from previous submissions. Do any of you Members have any questions for the panel?

There are certain issues that have come up while we were hearing other submissions and our discussions with the public, there is another sort of system that is running concurrently with the current debit and credit card systems that we are using. Those are the non-cash systems like Prouds, Tappoos and Jacks cards, MH flash and gain cards, but they have the cash equivalent. You can redeem your points for certain gifts which does operate as cash. Will these plastic cards or networks also now come under the current Bill?

MR. B. WHITESIDE.- It is our understanding, Mr Chairman that they would not be. Normally, these are cards issued for particular customers, like MH card, that is only for the customers of MHs and you could only use that card at an MH shop. So, there is no interchange really required of that.

MR. CHAIRMAN.- That clears the point. I also had the Mobil fuel card noted, they can be used interchangeably, I think in Mobil shops, also in MH?

MR. B. WHITESIDE.- Maybe if MH and Mobil have an arrangement, they might be able to do that.

MR. CHAIRMAN.- If there are two separate entities and it is an inter retailer card, it might than just come in the ambit.

MR. B. WHITESIDE.- At this point, they will have an arrangement like if it is MH and Mobil, there would be an arrangement and that card can be used if it becomes more widely used, then it will have to link, link to the interchange.

MR. CHAIRMAN.- Thank you. There is another question that a lot of consumers had been asking is that, I am not sure whether this is RBF's area or not, but as a regulatory authority, certain banks do encourage their customers to be with them, like they offer certain free transactions. ANZ, my bank, does not give me anything for free, 30 cents from the word go but Westpac, I think gives four transactions free, Baroda, six transactions per month free and Westpac, four or five transactions. With everyone now linked to the interchange network, the national network, will banks be allowed to offer these incentives to their own customers?

MR. B. WHITESIDE.- I think banks will still have that ability to offer it to their customers so if you are a Westpac customer, you hold a Westpac card. You will try to use the Westpac machine, if you have got four free accesses of withdrawals a month. After that, of course, you may be charged by Westpac but there is a fee for using another bank's machine. So if you are a Westpac customer, you go to ANZ, you will be charged a fee and ANZ will get a portion of that fee, and that is the interchange fee.

MR. CHAIRMAN.- Will that be maintained or will that be amended?

MR. B. WHITESIDE.- That will still happen. We are hoping, with the great volume as I indicated, the fees would come down over time.

MR. CHAIRMAN.- What we heard from the drafters and also from the public was that, currently the practice seems to be anti-competitive.

What happens at the ground level is, the new player, BRD Bank, if you use their card in ANZ or BSP, you will be charged about \$8.00 per transaction and I think HFC is also facing the same problem.

Now the three big players, ANZ, Westpac and BSP, they have their agreements which will of course become null and void after this Act is passed, if this Bill is passed into an Act. In your opinion, is this Interchange Network (Payments) Bill going to affect those areas of anticompetitive behaviour that is currently happening?

MR. B. WHITESIDE.- Just to clarify that issue, I think Bred Bank is stand-alone at the moment, so I do not think it has any interchange because as I said, it has not linked up yet with the other banks. We actually have right of approval of fees charged across banks. So, I do not think it is as high as \$8.00, I think it is like \$1.00 and \$1.50.

MR. CHAIRMAN.- \$1.50 is BSP.

MR. B. WHITESIDE.- So that is interchange fee, but I think as the use of the interchange, the national interchange comes in, we would expect fees, perhaps to be a bit lower through greater volume, I guess it is all banks come on to the system. The beauty of it is that a new entry like Bred Bank will automatically be licensed on to the system, so, their customers can use their card at any bank machine or EFPTOS.

MR. CHAIRMAN.- I have noticed from your submission that you have called for the system to be robust and be able to handle the volume. I had in fact a question in that area as well. All of us who use plastic cards have noticed that sometimes when the ANZ network is down, for instance, you can always go and use the other banks because they have a separate network. Now with the single network system, if there is a technical issue with that system, the entire plastic card system is expected to be down for a few hours a day, how does that affect the economy and the transactions?

MR. B. WHITESIDE.- We need more details on the system itself, that is why we have mentioned the need for robustness and possibly, there should be a backup somewhere along the line, to ensure that the system does not fail.

MR. CHAIRMAN.- It is more of a technical issue though.

MR. B. WHITESIDE.- It will be a technical issue, yes. You got to have backups.

MR. CHAIRMAN.- Your RBF system of international payments for large corporations is called 'FIJICLEAR.'

MR. B. WHITESIDE.- We have FIJICLEAR, but it is like for just the banks, where the banks clear with themselves and with the RBF.

MR. CHAIRMAN.- And this FIJICLEAR system will not be part of the interchangeable?

MR. B. WHITESIDE.- No, it is just for the bank members. There is no interchange needed, the system runs through us and we are the operator.

MR. CHAIRMAN.- You have also mentioned that you need RBF's representation in the Board. The Bill, in its current form, does it provide for RBF's

MR. B. WHITESIDE.- I do not think the Bill exactly mentioned that, but because of our importance in the payment system, we would like to be represented.

MR. CHAIRMAN.- We will note that down because that is something that we can discuss with the drafters and I think it is an important point that if the regulators are not on the Board, you might be lumbered with a lot of questions and complains every day. However, if you are on the Board, you might be able to solve some of the issues right there and then.

Any other questions, Members?

HON. RATU S.V. NANOVO.- I would like to take this opportunity to thank the team from the RBF, especially the presentation made by the Governor, I just have one question to them.

With the introduction of this new interchange network payment system, how do the major banks in Fiji see it, do they go for it or do they support it? Because I think, through this, the profits that they normally get at this point in time will be slightly affected, or what is that case about it?

MR. B. WHITESIDE.- I think the banks will have to go with it. I guess their issue would be that they have already invested a lot of money on their own systems to actually interchange or interact with other bank system in Fiji. So now they will be required to license themselves and on to the national switch for interchange. So the issue from your side, I guess is, they have invested a lot of money in it and that is why it has cost them an extra bit to get on to this national switch now. However, I think they will have to go with it.

HON. RATU S.V. NANOVO.- Just to add on to that, Mr Chairman, is this another way that you can closely monitor the transaction that is going amongst the banks in Fiji, through this system to you?

MR. B. WHITESIDE.- I guess the information will be there at the interchange, with the Authority, not necessarily with the RBF.

HON. B. SINGH.- Mr Chairman, thank you Governor of the RBF for your presentation this morning on the Fiji Interchange Network (Payments) Bill 2016. It was really good to hear your perspective and from the Drafters yesterday, we heard about the interchange and the Fiji clearance. Fiji clearance is about the payment system by cheques and clearance through your respective domain.

My question is, looking at the Fiji Crimes Decree and the cyber-crimes happening in the world, do you think our current Crimes Decree will be able to cater for the robustness of this interchange system that is coming in?

MR. B. WHITESIDE.- I think all transactions in Fiji in excess of a certain amount will still be reported under the Fiji Intelligence Unit (FIU). I think those will still be captured in terms of, if you think money will be laundered through this system. Can you add anything else, Ms. Seeto?

MS. W. SEETO.- All the participants on the Interchange will be licensed and monitored. So, it is not open to any member of the public to access the Interchange, it will be specifically licensed and oversight by the RBF and the Authority.

HON. B.SINGH.- Just to add to that, as a suspicious transaction report is being generated every day from the banks, will that still continue?

MS. W. SEETO.- Yes.

MR. CHAIRMAN.- I have noticed from your submission, Sir, that your examples are basically around debit cards, will this Bill also affect credit card transactions?

MR. B. WHITESIDE.- That was the easiest example, but credit cards, yes. If you have different credit cards issued in Fiji by the different banks, say Visa Card, Master Card, Amex (I do not know if they issue it here), you should be able to use that card on any machine, so it will need the interchange. It will need to be licensed.

MR. CHAIRMAN.- There was a consumer issue in this regard, perhaps it encloses on a different area as well but it probably is the RBF's arena; there was a time when RBF had given a directive that the merchants were not allowed to charge the credit card fee of 3 percent or 5 percent, and that resulted in a lot of merchants refusing to accept credit cards. I think that was relaxed a bit, so now different merchants charge either 3 percent or 5 percent fee on a transaction. If the banks are now required to be part of the Interchange network and there will be certain amount of costs involved and if they pass it down to the consumers, then there might be a slight increase in these charges as well. Will that be a problem?

MR. B. WHITESIDE.- We had not thought of that but I think the credit card charge put on by the retailer or a hotel, et cetera, will still stand. We had made an effort some time ago to do away with it but unfortunately, it did not work.

MR. CHAIRMAN.- There was a refusal by merchants to accept credit card payments at all, when they were not allowed to charge for a certain time.

MR. B. WHITESIDE.- It is the merchants who were actually putting that charge on and they said that that charge was basically to cover the fees that the banks were putting on them in order to run the machines and credit cards.

MR. CHAIRMAN.- So everything remains the same; the equipment, the method of transaction and the printout of receipts but the only thing that changes is, instead of having two or three separate networks and the requirement to have agreements to access each other's network, we will now have one national network and everyone will be linked to that.

MR. B. WHITESIDE.- Yes. It is called the 'National Switch' where everyone goes through one instead of individual banks going bilaterally with each other.

MR. CHAIRMAN.- If we look at the Explanatory Notes in the Bill itself, one of the purposes of bringing this Bill is to reduce the costs associated with electronic transactions. Will the RBF have any control?

You have said that you have powers to regulate fees and charges, if the banks pass those extra costs that they will be required to incur in joining the National Switch and the profit they lose, for example, BSP losses a percentage of \$1.50 if their card is used at ANZ, there will obviously be some implications on costs for the respective banks. If they pass it down to the consumers, then one of the purposes of this Bill will be defeated. Is there any way that RBF can regulate those?

MR. B. WHITESIDE.- Mr. Chairman, as indicated, we will look at all charges being proposed by banks. Usually, they have to justify the charges that they want to put in place, and how they came about this new charge that they want to put in place. In this instance, we will also work with the Interchange Authority in terms of the fees which may be proposed, so they will need to justify to us any new charges that they need to put in place.

MR. CHAIRMAN.- We have the submission of the Association of Banks with us, and they will be coming later in the day to present to this Committee. They are saying that the six months period that is given as a holiday for compliance is too short for them, and that there was not enough consultation. However, after hearing from you and saying that consultations had been conducted at a larger scale before this Bill was considered, what do you have to say on this, is the time enough or do they have a justified case of asking further time?

MR. B. WHITESIDE.- Mr. Chairman, I think the issue of the National Switch has been discussed for quite a while, it was announced in past Budgets but in terms of really detailed discussions, we have only just been moving on that recently. We have had a session with the Ministry of Justice which also had the banks attend as well.

In terms of whether six months is sufficient time, I mean, that depends on the banks' systems and how they can adapt their systems to the Interchange. I cannot make a call on that at this time, whether that is sufficient time.

MR. CHAIRMAN.- A concern that was also raised by one of the Honourable Members here is the penalties that are mentioned in Clause 21, that if one of the banks is operating and has not obtained a licence, then there is a charge - for a corporation it is \$150,000 and an additional fine of \$5,000 for each day if the offence continues and for an individual (natural person), it is \$30,000 one-off and then \$1,000 for each day if the offence continues. There has been a suggestion that that penalty may be excessive. What is the RBF's view on that?

MR. A. ALI.- I think the words there are; "...to a fine not exceeding \$150,000...", so it is not necessarily \$150,000.

MR. CHAIRMAN.- But in an instance where if it is \$150,000, is that justified?

MR. A. ALI.- I think at that point in time, the court will decide based on the severity of the issue.

MR. B. WHITESIDE.- Mr. Chairman, I think it serves as a deterrent for those operators who want to operate without being licensed, so it is a deterrent.

HON. RATU S.V. NANOVO.- On the other side, Mr. Chairman, will this not act as a way of banks slowly moving out, or they would not want to come to Fiji because of this penalty that is going to be imposed if someone commits this crime?

MR. A. ALI.- We do not think so, I mean, one of the key things is that (and I have some statistics on those), a number of ATM transactions including EFTPOS over the last year is about 22 million transactions. In value terms, that is exceeding \$3.5 billion. The interchange transaction is very close to three million transactions. That means right now, that does not include BRED Bank and HFC, and in value terms, that is very close to \$100 million. So, that is the amount of funds that is going. So, if people are on the system (and that is why we talked about the robustness of the system) I think we need to ensure that no one comes in not licensed.

MR. CHAIRMAN.- Right.

HON. RATU.S.V. NANOVO.- Even that, Mr Chairman, with the imposition of this network, will that amount drop because of the fees that you going to charge will drop to the banks who are operating this?

MR. A. ALI.- It should increase.

HON. RATU.S.V. NANOVO.- So?

MR. A. ALI.- The number of transactions should increase and because Government is now investing in the infrastructure and Government has mentioned it that they want fees to reduce, Government can then have introduced a lower fee. So, fees in our view should actually come down because the volume will increase and Government is putting in the infrastructure.

HON. RATU. S.V. NANOVO.- The question is, we understand that the Fiji Interchange Network will be supervised by a body known as an Authority. So, the Authority will be formed by the Government, so they will be the one who will be funding all these?

MR.CHAIRMAN.- You have something to say.

MR. A. ALI.- No, no. It will be funded by Government and then I guess self-funding by the Authority once they start making their fees, I guess.

MR. CHAIRMAN.- Yes, because that is the question we asked the AG's Office yesterday of why is there a need for the Auditor-General to review their finances and accounts. So, we were told that because the Authority will be making allocation from the public fund. So, there is a need for the Auditor-General to review their accounts and that probably answers your question there. It might be self-funding as well but there will be an allocation made.

There is some very interesting stats given by the RBF: 22 million electronic transactions last year and 3 million interchange.

Now, if we apply the rate at the moment, an average rate of \$1.50, it is \$4.5 million of interchange that has happened. If that rate is reduced or taken away altogether, there will be a vacuum with some banks somewhere of that amount. There is a large sum of money and how will that cost be covered, I hope it is not passed down to the consumers.

MR. A. ALI.- So, right now, the fees are shared between the banks and that fee is based on the amount of investment they have done, so they are trying to recoup part of the investment. Now, since Government will be investing in the infrastructure, then in the real term, they are not losing income because they have not invested anything.

MR. CHAIRMAN.- Cost of running and maintaining a network is taken away from them.

MR. A. ALI.- Yes

MR CHAIRMAN.-So it evens out.

MR. A. ALI.- Mr. Chairman, they still have their system. They still have to pay for their system but that will link to the interchange system which is paid for by Government – yes.

MR. CHAIRMAN.- Earlier on, when we were discussing the issue as a team, because this is something very new for Fiji and in fact it has never been now tried before in Fiji, is the RBF aware of any other jurisdiction where this kind of system is up and running without much problem? We heard of two countries, India and Malawi that have national switch.

MR. A. ALI.- There are few other countries - Butal and Bangladesh have it and there are others also.

MR. CHAIRMAN.- Would the RBF have any report on this interchange network on those countries? Something that we can rely on, some report or some assessment.

MR. A. ALI.- We can come back and provide that.

MR. CHAIRMAN.- Alright, thank you.

HON. RATU. S.V.NANOVO.- Still on another question, Mr. Chair to the team from the RBF, with the introduction of this new system to Fiji, will that bring so much relief to the bank customers in future, compared to what they are facing to-date?

MR. B. WHITESIDE.- Mr Chair, the beauty of the system is that any new entrant, any new bank coming into Fiji would automatically link to the switch. All their customers will get on straight

away and those banks now that do not have the interchange bilaterally with other banks, their customers will automatically be able to utilise other banks EFTPOS machines. So that is the beauty of the system.

MR. CHAIRMAN.- Yes, that brings me to a practical question that we had put to the drafters as well. For instance, ANZ will invest in the machine and in the building for example in Taveuni or in Koro Island. Now, they will obviously want to recoup the cost of installing that facility on an outer island. If another bank is able to use that or the customers from another bank are able to use the same machine at the same cost as ANZ customers, then that is basically a case of riding on the back of ANZ. They will invest in the machine and building and other banks customers can use it for a minimum charge. Will that deter the big plans from investing in outer islands and remote places?

MR. B. WHITESIDE.- That might be something you can ask the banks this afternoon, but by other customers using another bank's machine, that bank will get some of the charges. So, they might recoup their costs a bit faster. They would cater for their own customers but also any others in the area would use the machine, but there could be a time when you have generic machines put out by another company, it may not be a bank, that might be something that is in the future where the banks do not necessarily do it but it might be a cash handling company. In overseas, they have cash handling companies that actually do that. They provide machines and they are on interchange.

MR CHAIRMAN.- If there are no other questions or comments, any general comments from the RBF panel before we close?

MR. B. WHITESIDE.- No more comments, Mr Chair, but just to thank the Committee for inviting us in and getting us to share our views on this interchange. Thank you very much.

MR CHAIRMAN.- Thank you Mr Whiteside, Mr Ali, Ms Seeto, Mr Mevin and Mr Vereimi Levula for your time this morning.

We have behind you in the public gallery the first year Politics students from the University of the South Pacific who are here to observe the proceedings of the Parliamentary Committee process. I welcome you all and also their lecturer, Mr Robert Nicolle, thank you for having an interest in your Parliament and its Committee and procedure.

I will now allow the RBF to conclude their submission which they have done and I invite all of you to have tea with us and we can discuss any other issues that are left over tea.

Honourable Members, we are adjourned until 12.00 p.m., where we can finalise other matters. Thank you very much.

The Committee Interview concluded at 11.15 a.m.

The Committee Interview resumed at 2.38 p.m.

Submittee: Association of Banks

In Attendance:

- | | | | |
|----|---------------------------|---|--------------------------------|
| 1. | Mr. Veilawa Rereiwasaliwa | - | Deputy Head of Retail, Fiji |
| 2. | Mr. Aubory Dodd | - | Head of Channels, Pacific |
| 3. | Mr. Kevin McCarthy | - | Chairman |
| 4. | Mr. Frederick Reynald | - | Deputy Chairman |
| 5. | Mr. Kushal Prasad | - | Manager Research |
| 6. | Mr. Govind Rajput | - | C.E. Bank of Baroda |
| 7. | Mr. Raj Sharma | - | General Manager Risk, HFC Bank |
| 8. | Mr. Brett Hooker | - | General Manager, Westpac |
| 9. | Ms. Eta Biutaki | - | A/Secretary |
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MR. CHAIRMAN.- Good afternoon, ladies and gentlemen, members of the public, members of the media and members of the Association of Banks. We are fortunate to have the entire representation for the entire banking sector present here before this Committee, to provide their views on the Fiji Interchange Network (Payments) Bill 2016.

(Introduction of members of the Team)

As we are all aware, we are at the moment considering the Fiji Interchange Network Payment System which the Government has tabled as a Bill in Parliament in the February session, and we have to return a report with our intended amendments to Parliament in the April session. We hope to convert this Bill into an Act which will then be applicable to the entire financial sector as far as the interchange of networks are concerned.

We have heard from the RBF and earlier on, we have heard from the draftsmen, the Solicitor-General's Office and we are privileged today to have you here, to hear the views of the banking sector, who may wish to regulate with this Bill.

Without taking much of your time, I will now request your representative to make your presentation. If Honourable Members have any pertinent questions, we will be asking you along the way, otherwise we will reserve the questions for later. Thank you very much.

MR. K. McCARTHY.- Thank you, Mr. Chairman.

Good afternoon to you and Honourable Members of the Committee. We have submitted a written submission on this to you which I trust you have had an opportunity to have a look at. I do want to go over that again and emphasise some key points from that, and then either along the way or at the end take any questions that you might have.

I think essentially, we consider that this Bill, the need for Fiji Interchange Network is not proven. We believe that the banking system already have interchange arrangements which, as new institutions were licensed, these new institutions were coming on to the existing interchange network, which is mainly what we call, 'Bilateral Interchange Links', where it is an agreement between just two banks. So, you have an individual interchange agreement with each bank. That was progressing quite well.

I think when it was announced in the 2014 Budget that there was going to be a National Switch, I think that slowed down some of the developments that would have happened in terms of interchange, and we believe that it would have been mandated to happen.

There are existing interchange links between ANZ, Westpac and BSP. There are arrangements in place where Bank of Baroda, through BSP and HFC through Westpac, was joining into that market, and we have BRED Bank also.

BRED Bank is a new player in the market and they are in favour of the National Switch because, I suppose for a new player, it could be seen as a bit daunting to have to come in and do individual interchange arrangements with each of the banks. So, to some extent we are a little bit split as an Association in that BRED Bank is in favour of the National Switch. The other banks believe that the existing interchange arrangements could have been expanded to include the other players.

We are all suggesting, for the size of our market, it is not necessary to have a separate switch, another overlay over an existing system that already is working adequately. We did have some reservations about some areas of the legislation, and I will go through those.

One is the power to examine records. Yes, we are regulated by the RBF and entering without any prior written notice, and also the ability to enter any of their offices in or outside the country is quite extreme. I do not think that is something the banks will find it difficult to be able to comply with them, to allow access to their offices anywhere outside of the country.

We believe the definition of 'payment service' is very wide and could be, sort of, used to open this up to things that are not perhaps intended right at the moment.

On the lack of standards, we do acknowledge that the detailed and the working models would happen within the Authority, but this legislation does not talk about any of the standards and security protocols that would exist in a switch. That, sort of, moves on to the fact that as an industry, while we push for legislation to set up an Authority, we really do not have any understanding yet of what the working model is going to be; how it is going to be commercially put together as a working model.

One thing we are very concerned with is the transitory provisions which allows six months for this to be set up, subsequent to the passing of this legislation. As we have said, when the RBF mandated interchange for EFTPOS, that project took over two years to do. It is very complex and it took a lot of time to get it done, and by putting a deadline of six months from the passing of the legislation, it could take six months to even just put a Committee together and there are penalties in the legislation that talk about what happens if you do not set up within six months. We believe that at least it would be left to the discretion of the new Authority to set up, to agree to a time as they progress through the model.

MR. CHAIRMAN.- Any suggestion of a time frame that will be suitable to the banks?

MR. K. MCCARTHY.- At the end of the day, it comes under the Authority that is going to be setup as to how quickly they can move, but all these need to go through a thorough testing process, and it is not easy.

Our suggestion from a legislating point of view is, rather than putting a hard code of time frame into this piece of legislation, leave it to the Authority to determine the time frame, depending on how quickly they move.

We are happy to make this a matter of urgency and priority once it is done but we understand it will take some time; first the Authority to be setup and then for it to examine this whole concept of how the business model is going to work. So we believe that putting the six months in the legislation is only going to cause an issue.

The RBF is not very clear in the legislation as to what their role is. The RBF is the existing regulator of the banks and also regulates the payment system in total and it is really not clear in the legislation whether they will just have a role in licensing or whether they have a role to play in the administration of the payment system because this will become an important element of the payment system.

Moving on to the drafting, there is a discretion there that allows existing licensed banks to be given the licence for the National Switch, but it appears to be at the discretion of both the National Switch Authority and the Minister, given that all the existing banks are currently prudentially supervised by the RBF. We thought that the banks should be automatically centred from the licensing requirements.

I think it is fair to say this that while majority of the banks do not believe that we need a National Switch, it only appears that the Government is firmly committed down the road of putting in a National Switch. So ultimately, we will certainly partner with Government in that.

I think it is very important that the banks are given the role either on the Board of the Authority or at least in the working group that will be established to set this up. All the banks need to be very involved in this, otherwise we are concerned we could wind up with a system that is not workable for the banks.

I think that is the main part of our submission. I am happy to take any questions or any of my colleagues have any further comments they wish to make.

MR. CHAIRMAN.- Since there are individual banks represented here today, I would like to hear from each individual bank, maybe a brief outline of what is your position. As a starter, the Bill which we have been discussing so far hopes to achieve uniformity across the board, and it is basically designed to give relief to the general population and whether that is achieved or not is a question for another day. At present, I am with ANZ Bank as an example, and if I swipe my debit bank card at ANZ, I am charged 30 cents per transaction, but if I use the same card at BSP, I am charged \$1.50.

Now, the Government's intention is to make trade transactions as much cashless as possible. We are favouring the plastic card system (in common man's language). If this happens, if this Bill is passed and is regulated and the fees and charges are made uniform, do the bankers think it will be, in fact, more transactions, the economies of scale will improve? With the number of transactions that we have heard from the RBF, last year, we had 22 million EFTPOS or ATM transactions, about 4 million of those were inter-bank transactions which at a rate of \$1.50 if the trade is applied, it is about \$4.5 million worth of transactions that happen. If we are going to make it uniform, how is it going to affect the banks?

MR. K. McCARTHY.- At first, let me just say, I think there are only three main interchange transactions, but all banks invest. When we put an ATM, it costs an average of somewhere between \$70 or \$100,000 to lend and set up an ATM in the country, depending on where it goes in and the reason we charge interchange fees is that, if I did not get an interchange fee from ANZ or other banks used my ATM, where is the incentive for me to actually put an ATM in if there is no income to be going from doing that?

The unintended consequence if you took all those fees out, the banks would be less likely to invest in ATMs and you will actually see a reduction in ATM services because banks will no longer be getting their fees to set those up.

MR. CHAIRMAN.- In fact, we did consider that point earlier on that if an ATM is needed in say Koro island or Taveuni, a bank, obviously ANZ or BSP or whichever bank wants to spend \$100,000 to set up an ATM there would want to recoup that investment, and if other banks are allowed to piggyback on ANZ's investment, then why would ANZ, or BSP or Westpac or any other bank take the first step? That might be a deterrent to the banks.

Again that point was addressed by the RBF, as you might have in a remote area or in an island there are very few ATM transactions but if one of the banks puts the machine there, and all the other seven or eight bankers, bank customers will be using the ATM which will be generating a wider income for the investor, the bank that has invested in the machine, is there any balance point in there?

MR. K. McCARTHY.- I am not sure where you think the income comes from that the other bank customers are using it, but generally speaking, for an ATM to be profitable, it is going to be doing somewhere to around 7,000 to 8,000 transactions a month, to be a profitable ATM.

There is no ATM that you could put on Koro Island that would ever do 7,000 to 8,000 transactions a month. That is why in the more remote locations in the rural and maritime areas that the model is generally more EFTPOS based, using an agency type like your Post Fiji or in store top agents that Westpac runs as well.

So that sort of model can work better in the more rural and maritime locations because if we put an ATM there, firstly, we have the cost of setting it up, we have to shift cash to it and we would have to service them. Every time there is a cash jam (which could happen on the machine), we will have to put someone on a boat to go and fix the machine so it makes it logistically nearly impossible to put that in those locations which is why an EFTPOS driven solution is far better.

As you may be aware in EFTPOS, there is no \$1.50 interchange fee, there is a fee that is charged to the merchant, which is around 40 cents and that fee is then shared by the acquirer and issuer, so the acquirer being the person who owns the EFTPOS machine, gets part of the fee, and the bank issuing the card gets part of the fee.

MR. CHAIRMAN.- Thank you. The Draftsmen explained to us that everything else will remain the same, it is only the network. So, the question at the moment is, we might have three banks with one network or other banks can form another two or three networks. What this Bill will achieve is that, there will be a single network and everyone will be linked to that for a prescribed fee which is not clear or yet to be prescribed.

The problem we see there is, there may be a technical issue. At the moment, if the ANZ system is down you can always take your card to BSP and withdraw. If there is a single system or network and if that is down, the entire electronic transaction is crippled. Do you see that as a problem as well?

MR. K. McCARTHY.- Sir, I think you have to take into account that it is just one bank customer using another bank's machine. So, the vast majority of transactions happen by Westpac customers using a Westpac ATM and a Westpac EFTPOS, and similarly through all the banks. That is the vast majority of transactions. We are talking about a smaller number of transactions where a Westpac customer might use a BSP ATM and vice versa, so they always have the option. If this National Switch fails, they will have the option to then go and find a Westpac ATM and use it.

This is part of our consideration. While we know very little about the business model and that we know nothing exactly about what is going to be the built-in redundancy to the system, if you are going to have a National Switch, it has to have a full disaster recovery backup arrangement. You will have to have a secondary data site that they can be switched to in the course of natural disasters, et cetera.

The problem, to some extent, with this legislation is that, it does not really talk about all these issues that you would deal with in setting up a National Switch, it more or less leaves that to the Authority to set it up. That is why we have been hesitant because we do not really know all those details yet.

MR. CHAIRMAN.- The logistics and the operability is not clear from the Bill in your opinion.

MR. K. McCARTHY.- The Bill more or less just sets out the Authority and then says; "You are the Authority, now you get on and build the system". The Bill says it is going to happen and yet, we are just concerned about exactly how this is going to work and how the technical details will work.

MR. CHAIRMAN.- RBF has presented to us that they will look into regulating the fees and charges as well, and they will need the banks to justify the charges which they implement on a transaction. Do you see that as a problem for the individual banks?

MR. K. McCARTHY.- Not at all. At the moment, the RBF regulates all their fees and charges. There was an exercise that happened about two to three years ago where we had to go through an exercise of justifying all RBF's fees and charges as part of the major review that they did.

Every time now if we introduce a new fee or we want to change our fees, we have a process to get through the RBF to justify the cost of providing the service and the competitors and what is going on. So, we are very used to that regime. However, in this instance for the National Switch, if it is going to charge a per transaction fee, from our perspective, that would be a charge straight to the consumer. Any fee that a third party would charge to us for a transaction, we would see that they are being passed to the consumer, plus there will be another fee on top of that for the banks' own cost and the processing of transactions. So, there is certainly a danger in this that you could end making electronic banking more expensive as opposed to making it cheaper.

MR. CHAIRMAN.- At present, certain banks and I believe the Bank of Baroda, has six transactions per month free and Westpac has four. My bank ANZ does not give me anything for free. So, it is 30 cents per transaction. That is an intra-bank arrangement, it would not be affected by this Bill to our understanding. This Bill is only affecting interbank transactions which is interchange. Will that position be maintained?

MR. K. McCARTHY.- That is correct, Mr. Chairman. Each bank in setting its fees and charges and deciding how many free transactions it does or does not want to give looks at its own value modeling, so a principle at BSP, we also do not allow any free transaction. However, we believe that the access and commission we give you is worth what you pay for that transaction. So, each bank has its own value proposition and that is an individual thing for them to work out.

MR. CHAIRMAN.- As I have said, because we have a very esteemed panel here, starting from this end, may we hear from individual banks what they generally feel about this Bill? Thank you.

MR. B. HOOKER.- Mr Chairman, as a member of the Bankers Association, we also made our contribution as Mr. McCarthy has just delivered. I think some of the key issues for our bank individually is, the commercial terms behind the switch which we obviously are not privy to. Like Mr. McCarthy has stated, at the moment, the Bill purely addresses the setting up of the Authority and then the details behind that, we are unaware of which one concerns us.

We note that in Australia, we have been through this as ANZ have, generally a timeframe for the banks to put something like this together is two to three years with them in the past. Key issues that we also look at is security. Hence, we see that the involvement of the banks is crucial here.

The other thing obviously is the investment that Westpac as a bank has already made in this sector. What would the likelihood of the interchange do to our existing investment that we have on the ground here? Thank you.

MR. G. SINGH.- As for Bank of Baroda we have already 12 ATMs and we are planning to have more ATMs so almost our ATMs will be around 70.

We have at present arrangement with BSP, and we will be happy if this main Switch will be operative so that our customers can operate on other banks. However, the representation given by ABIF on final points, we presume that it should be taken into consideration.

MR. CHAIRMAN.- So, Bank of Baroda at present is only with BSP on their Switch?

MR. B. SINGH.- Yes, so if this main Switch operates that our customers can be, then it is very easy from the other banks but whatever this representation given by ABIF members and we table the representations.

MR. CHAIRMAN.- You have said that you are investing in more ATMs now but as Mr. McCarthy has pointed out, then why would BSP take the risk?

MR.G. SINGH.- We have arrangements with BSP, they assured us to have this interchange ability with Westpac and ANZ as well, but since the main Switch is coming into the operation, further negotiations have been held back with the project.

MR. CHAIRMAN.- Something was being negotiated until the Bill was presented so that probably stalled the process. Thank you.

MR. F. REYNALD.- In BRED Bank as it was said by Mr. McCarthy, we are a bit different from our colleagues. Of course, for various reasons because we are a new entrant in the market, so we strongly support the National Switch project, of course.

Our first reason is that, we think that the market right now can be seen as unfair in terms of banks because, for example, if I set a project of interchange with Westpac or BSP or ANZ at the moment, my cost will be different each time and I will always be able to access one single network. So, that is the first reason.

However, the main reason for me (and I totally agree with what you have said at the beginning, Mr Chairman and thank you for that) because we talk a lot about the banks and the problem with the banks, et cetera, but we do not talk about the clients. So, the main thing for me is that the Switch is interesting for the Fijians because they will be able to access their money everywhere at all time. If they are near an ANZ ATM or an EFPTOS of BSP, et cetera, it will be the same and it will be also easier, as you said, to regulate how the market is working on this system, on this scheme.

So, I think everything is good on the project, however we also agree that the bank should be really involved in the settlement of this Authority and that the national switch takes time, it is a long project.

We have some experiences in Europe about that, but at the end, we see that the national switch are efficient, cost effective and also good for security.

We saw for example in France, there is a switch called *carte bancaire*. All the transactions in France are passing through this system and we saw since the beginning of *carte bancaire*, the fraud has decreased by more than 100 percent.

The thing is to have a central point of entry in the network, it is good also to regulate and to handle security and volumes, and information on the system to be transparent also on the system.

So there is one major point for national switch too. We strongly support this Bill of course on the conditions that was stated on IBAN (International Bank Account Number) because we agree that it will take time and that we have to be really involved in the composition of this Authority and all the settlement, features, security, et cetera because it is central point of entry but as a central point of entry, it is also sensitive because of that, so we have to be really careful for that.

MR. CHAIRMAN.- Thank you for that, as Mr McCarthy explained there needs to be over 7000 to 8000 transactions per month to make the ATM profitable. Now, if there is a national switch and all the banks are allowed to use BSP's ATM at the same rate, then why would BSP invest in an ATM that is accessible to other banks as well?

MR. F. REYNOLD.- I think one of the strategic points in setting up the switch is also all the fees structure that will go with it because as Kevin said, it is an investment, of course.

The 7000 and 8000 transactions a month depends I should say, it is because everyone has a cost structure difference, starting from procurement on ATMs, so we do not have the same prices, et cetera and then as there is no regulation on that, everyone take fees differently, for example on international card, it is different on each banks so the PNL of an ATM can be different from one bank to another, just to be precise on that.

However, one important thing, to answer your question is to define National Switch, it does not mean that we do not talk about fees, I think. We also, like we said in our preposition, have also to set up a commercial scheme that goes with the national switch, it cannot go without a commercial scheme.

MR. CHAIRMAN.- As we heard from the RBF, Mr McCarthy, would you like to add to that? The 22 million transactions is intra bank, that is not affected by the national swift, that is the same bank card to the same banks ATM. What we are talking about here is the 3 million transactions that happened in 2015, that is interchange, that is the Bill that is looking at that number.

So, the respective banks transactions of 7,000 to 8,000 on that ATM is maintained or most probably be maintained. It is the interbank transaction that we are more concerned about on the Bill, is that any assistance to your position?

MR. K. McCARTHY.- When you talk about interchange transaction, they are not on all ATMs, a lot of those are on EFPTOS in fact probably more on EFPTOS than they are on ATMs. An EFPTOS machine is a very different piece of machinery, it costs you about US100 for an EFPTOS machine verses the 100,000 or thereabouts for an ATM. So, it is not directly comparable as Frederick

said with an ATM on your own transaction you might earn a fee of around 40 cents, if your own customers are using your own ATM.

Another bank customer uses your own, you get \$1.50. If a tourist comes and put an overseas card on a machine, there is another further cost to that which around \$8 to \$10. If an overseas person uses the machine and that is for any MasterCard, Visa or Amex sort of bank cards so depends on the mix, if you are in Nadi with the tourist area and you have more tourists using your ATM, you make more money in the ATM with less transactions there because of the tourist involvement.

MR. CHAIRMAN.- Before we move on, I have a note here that the public gallery behind you, there is a group of students from USP and they are studying PL100 that is perhaps I think History and Politics and they are observing the proceedings of the Committee.

Thank you students for taking interest in your Parliament and Committee's work, you are also privileged today to hear from the representatives of all the banks that are in Fiji at the moment and whom you are dealing with now and in the future, it is a very informative session.

MR. A. DODD.- Mr Chairman, Mr Aubry Dodd from ANZ and Head of the Channels for the Pacific. We totally agree with this submission the banks have put in.

One of the main highlight that I just want to reiterate as well is timing. You have heard from a couple of colleagues that it does take a long time to introduce some of the switches and get them on board.

For instance, we are currently working with a couple of banks and joining them into the interchange switch, a couple of the smaller banks and that project will probably run for eight to 12 months before they actually come online, it just takes that sort of time to get through security levels, just the whole work of it.

Security also is always a concern especially on switches, so obviously we have not got the details yet so that needs to come out somewhere. It can, you could find that going through this process, the fees actually to customers need to go up because there is an overlay, obviously you have a national switch like this, banks are also going to operate their own switches because they need to be able to connect the schemes and everything else. So, this is going to be an additional cost to banks to do so.

We have seen in some of the Asian countries, where different models have been where you have seen banks pour out from having EFTPOS, for instance, because there is no reason for them they might as well just issue cards and allow those cards to work on all the other banks pause machines so it certainly does not encourage investment in the likes of ATMs or EFTPOS, you could just become an issuer and not doing any acquirer at all. I do not think that would be a healthy outcome but it could happen, you could see your bank pull back and go, so why are we investing in this?

There is a lot of investments in ATM networks and EFTPOS networks and to keep them compliant with schemes and everything else is a very, very big task. It is a bigger task than a lot of people realise behind the scenes.

I think interchange is important, obviously for the people of Fiji, we have to change now, it is a matter about how we best use what we have and whether that alternative has been really considered by the Committee because you have heard from colleagues here, all banks are connected to an interchange system with one bank or another and there is nothing to stop that going right across the whole lot, without having another rival.

My other concern as I had mentioned before is over the schemes and securities of that, and the cost of still running one zone switch with the overlay on top. Thank you.

MR. CHAIRMAN.- As we have heard from the RBF, the question that was posed to them was, if the interchange network currently is being maintained by the individual banks or both the banks who have their own arrangement, with the National Switch coming in, the banks will not incur expenses to maintain the interchange network which they are a part of. That cost will be now borne by the Authority for which an allocation in the budget will be made and to be audited by the Auditor-General. If that is taken away, do you not think that your expenses for that portion will be reduced while you are maintaining your own inter-switches?

MR. A. DODD.- Not significantly, no.

MR. CHAIRMAN.- Mr. McCarthy?

MR. K. MCCARTHY.- The banks still need to maintain a full set of switch infrastructure to deal with their own customers' transactions on their own devices, fast transactions going out to Visa Card, Master Card, Amex and other acquirers.

So, when we look at interchange and the things that they have set up, generally speaking they cost somewhere between up to \$200,000 to set up an interchange link between two banks. That is the establishment cost. Once they are established, they just become a normal part of your switch operations. So, it is not a cost to set up and not much ongoing cost. So, if we went to a National Switch, there would not be much savings, we still have to maintain our existing switch for both our own cards on our own machines and also to go to Master Card, Visa, Amex, et cetera.

MR. CHAIRMAN.- So while you are maintaining your own switch, you will also be paying a levy to the Authority which may be passed down to consumers which then increases the cost of transaction anyway?

MR. K. MCCARTHY.- That is only a possibility. As I have said, one of our issues, we do not get no ending about the financial model that will work with this. We know the legislation, layout, fees and charges to be levied but no one has actually sit down and explain how they would consider they would be levied, would it be a transaction or would it be an annual fee to be part of the switch, we really do not understand any of the main considerations around the switch.

MR. CHAIRMAN.- Do you have anything further to add, ANZ?

MR. V. REREIWASALIWA.- In addition to what has been mentioned by my colleague, we had this problem a few years ago with EFTPOS. So, the approach that was agreed on was for all the banks to come up with a fee charging mechanism without actually having any centralised switch. For more than seven years now, that has actually worked well.

On the other hand, we also have our payments system with the central bank, the RTGS, and I understand that will still go on. We have just finished from negotiation around price sharing with the RBF on RTGS and one of the challenges that we faced in there was the increasing maintenance cost that was being charged to RBF which is obviously passed on to us. So, having a National Switch and us not having to maintain that switch does not necessarily mean that the cost will reduce.

One of the benefits for ANZ, as an example, is our purchasing power, so in terms of infrastructure support and investment, we are actually able to influence pricing and that means we have a lower cost to pass on to our consumers. Whether the Authority will have that ability or not, is yet to be determined apart from what we have seen with the RBF that has not had much influence,

considering there has been a steady increase in cost over the years. I think it started from about \$200,000 to now \$2 million per annum in cost in which it gets charged on to us.

The other item is, as far as payment goes, this does not capture all payment types. This is only for electronic payments coming through EFTPOS and ATMs which we already have infrastructure for. It does not cover internet banking payments and it also does not cover payment settlements via cheques, et cetera, which is something that we have addressed with RBF on the RTG System.

The other bit that we have seen is around agility. If you look at the services that we offer on our ATMs, it is not just giving out cash, we actually make investments on other functionalities to be available on ATMs and EFTPOS, and that again is based on the profitability of those channels. Those are things like mobile top-ups, the ability to pay your Courts, your LTA bill or any bill for that matter, and that has not been addressed by the Bill.

Still on agility, just by an example of the RTGs, what we have seen there is that for more than seven years now, there has not been any major development on that system. It has simply been maintaining it and passing on the cost to us, and while our environment and customer needs have changed, the infrastructure and system in place has not moved fast enough to address those changing needs. To do that here, there is no capital available to actually do those infrastructure investments.

MR. CHAIRMAN.- What is that system used for?

MR. V. REREIWASALIWA.- The RTGs is run by the RBF and that is used for inter-bank payments. That is also another challenge that we could have in here, in that we run our own investment decisions based on our changing customer needs, and we are able to invest at our own pace. Having a National Switch will mean that we might not be able to invest as fast as we want because it has to have the involvement of all participating institutions.

While it only addresses, also from our prospective, we already have an infrastructure for it. We are able to invest at our pace, it is benefiting our customers. Other customers are able to use that infrastructure in the case of other banks like BRED Bank, HFC and Bank of Baroda for that matter, we are willing and happy to get them in. I believe there have been some discussions already on that and that is why we are more supportive of the existing system, rather than the National Switch.

MR. CHAIRMAN.- This \$2 million you mentioned that is passed on by the RBF to maintain that FIJICLEAR network, is that for individual banks or the entire?

MR. V. REREIWASALIWA.- That is for the entire.

MR. CHAIRMAN.- Since you have brought this up, we had a question regarding internet banking as well. Is this Bill or the National Switch going to affect internet banking?

MR. V. REREIWASALIWA.- No, as far as we have looked at the design that has been shared, it is purely for ATMs and EFTPOS.

MR. CHAIRMAN.- Because there are some inter-bank transactions also done by using internet banking.

MR. V. REREIWASALIWA.- Yes, there is quite a number of inter-bank transactions being done that will still happen outside of this switch, which we still need to maintain infrastructure for.

MR. CHAIRMAN.- Which would be an added cost to the individual banks, maintaining one and paying for the other.

HFC, Mr. Sharma?

MR. R. SHARMA.- Thank you Mr. Chairman. Probably for us at HFC Bank, we actually are the new entrant and tomorrow we will celebrate our 24 months in banking. We started on 3rd March, 2014 somewhat to the views that we very much support the National Switch. We only have six ATMs and six branches at the moment, and gradually we are trying to expand.

We fully support the views of the Chair of the ABIF in terms of the commercials, risk management and timeframe but in a nutshell, we support this National Switch and we have been involved through the initial discussions from the end of 2012 on the frameworks and our views were taken, and certain submissions that we have made to Ministry of Finance in that regard.

So, that is currently our view, we interchange with Westpac and our interchange is basically on the interchange fee. We are also trying to observe the costs to the customers. That is our view.

MR. CHAIRMAN.- Ms. Eta Bilitaki, you represent a bank as well?

MR. R. SHARMA.- She is the secretariat for our association.

MR. CHAIRMAN.- Alright. Do Members have any questions for the panel, please?

HON. RATU.S.V. NANOVO.- Thank you, Mr Chairman. I would like to take this opportunity in thanking Mr Kevin McCarthy and his team for the presentation done so far in regards to the Bill on hand that the Parliament or the Government is proposing to put forward to the people of Fiji.

Based on the submission from the Association of Banks, they have about seven areas of concern that they have raised in their submission. They were also talking about the timeframe given to them – six months period, that is too shorter time for them to actually fully grasp what is behind all these and how best this system can go forward. What do you think, if all these concerns are to be addressed, what time frame are you looking at?

MR. K. MCCARTHY.- I would suggest to be cited here from the legislation point of view, if one feels that it is essential that it must be in the legislation, I would say two years.

HON. RATU.S.V. NANOVO.- Mr. Chairman, based on this submission we heard from the RBF this morning, they were saying that the consultation with the banks and the Solicitor General's Office has been going on right from 2013, and based on what the Association of Banks is saying that they need more time. Were you been consulted fully on this or do you still need some areas to be addressed before you are fully satisfied that the way forward is also clear to you?

MR. K. MCCARTHY.- Sir, it was announced in the 2014 Budget at the end of 2013. There were two meetings held, and we just talked about how message specifications might work. In 2015, there was really no consultation whatsoever. In 2016, the Bill in front of us is the first piece of consultation. We were given, I think three days' notice to look at the draft Bill, and during the discussions with the Solicitor General's Office.

Our firm view is that no, consultations has not really been there. As I said, at the end of the day, we will go the empires' call and if the empires' call says is there be a National Switch, we will

go with that and we will absolutely support it, but, we feel we need to be very actively involved in this development, otherwise we will wind up with something that will not work.

HON. RATU S.V. NANOVO.- Still on that, Mr. Chairman, listening to all the banks' submissions this afternoon, there is a split amongst them. Some people are saying they do go on with the switch, while the others are satisfied with what is going on right now. By all complying to go on with this Bill, would that bring about a level playing field to all the banks whereby the customers will benefit at the end of the day?

MR. K. McCARTHY.- Sir, as we have said earlier, there is a risk in this that you are overlaying another system on to the existing infrastructure, with all its own costs and its own fees and charges. So, it could be, now that you will end up with costs in the customers paying more by putting this system in place, and also it just brings another issue we raised, that if you take away some of the current interchange fees, you will take away the incentive for banks to invest in ATMs and EFTPOS systems which could see reduced access to the general public.

So, there is a risk in this, which is why I think the eventual commercial model is so important to work out, to make sure the banks do still have an incentive to invest and expand what they are doing. That issue, we still do not understand that commercial model.

HON. RATU S.V. NANOVO.- With that again, I think we heard from the RBF and the Solicitor General's Office yesterday that the Government is also willing to assist them in the setting up of the whole interchange, if they all agree. With Government's assistance, they will put in some funds towards the setting up of this which would also assist the overall banking industry. The Government will also assist in this area. Will that assistance be enough for you to be satisfied with the Bill that is on hand right now?

MR. K. McCARTHY.- There certainly will be quite a few establishment costs involved with this, and if the Government is willing to assist for those establishment costs, that certainly would be of benefit to the banks to do that, but it is something that every bank is going to be involved in from the security point of view, to make sure that all the links, et cetera, are very secure. It would help, but as I said, if within the day if EFTPOS set up, there are costs involved and there are fees charged to be part of the National Switch, that could then be passed on to customers and could involve.

So, when you say, is this enough for us to be happy, I reiterate that our concern is that we still do not, in any way, understand the commercial model. It is the first we have heard that potentially the Government might assist with the establishment costs. So, we are really quite in the dark about commercially how this will work.

HON. RATU S.V. NANOVO.- Still on that, Mr. Chairman, I think, based on their concerns, maybe it is best that we look at their time frame and put it in our report. They need more time in order to really fully grasp what is all behind this Bill. Thank you.

MR. CHAIRMAN.- Also, to look into the commercial model and how it will work. Thank you. You have a question?

HON. B. SINGH.- Yes, Mr. Chairman. Thank you to the panel for their presentation. It is very constructive and holistic presentation. I only have two issues that I would like to bring to your attention.

The ATM machines are investments, and investments in the books are counted as assets. Any machine that is being vested on is a machine or equipment for the bank where the FRCA allows three

to five years of depreciation on a book. By three or five years' time, depreciation allows you to have written-off your investment. So, where is the additional costs that you are trying to come up with?

MR. K. McCARTHY.- Sir, apart from the additional costs here means: filtered into wherever you are going; build the Telecom links into it; put the power infrastructure, power supply and everything that goes into establishing an ATM.

Then, you have got the ongoing costs of maintaining an ATM. So, when ATMs break down, they have cash jams and cash has to be filled on a regular basis, they have to be serviced, people have to clean the litter when people drop their ATM receipts all over the ground. There is a huge amount of expenditure. We have a team of people, both in operations and in each channel that handles the management of these, it comes at a substantial cost.

HON. B. SINGH.- I do understand, but that is filtered down to the customer, and it is the ordinary customer who has already paid for that. By the books, under depreciation, you already have a gain though you have not made a replacement. That is one of the issues that I would like to raise.

The other issue is on the robustness of the system in the infrastructure. You do not think that there are economic, financial and payments stabilities through this Bill?

MR. K. McCARTHY.- Sir, we are just saying that the banks have expertise in this area of establishing interchange and the security protocols that go with that. We have these links that are already running in Fiji and running quite competently. I have, no doubt, that the National Switch, with the right input will just be successful, as long as it has all the full disaster recovery type of backups to it.

So, I am not saying the National Switch technically can work, there is no issue with it technically, but it is just the business model.

HON. B. SINGH.- Through you, Mr. Chairman, I would like to share one good example. While being away in Tailevu and I will not mention the banks or from which bank to which bank, but the two ATM machines at the disposal of the customers, one machine was down about two to three days ago but I was able to do my transaction through the other ATM machine. Do you not think that it is very compatible and user friendly for our customers or the end users when they are not able to access funds or if the banks do not have a bilateral understanding, they will go back and use an ATM in Nausori to access funds which will be more costly for them?

MR. K. McCARTHY.- I am not sure of the locations you are talking about but obviously, if they were in the Ba to Rakiraki corridor, they would have been impacted by the events of *Cyclone Winston* and there is a situation at the moment where there is no power there. So, it is dependent on the availability of Gensets and that type of thing.

I am not sure the National Switch is going to have an effect on the reliability of ATMs but if an ATM goes down for one reason or another, the National Switch is not going to make the ATM come back up and therefore, it will require the bank to go and visit the machine and work out the issue and solve it. So, I am not sure that there is any relevance to the National Switch having an impact on the up-time of an ATM.

HON. B. SINGH.- I was only trying to say that it is easier for a customer like myself, who benefitted and was able to access one of the ATMs through bilateral understanding between your banks. When one ATM is down, I was able to access another ATM, and that is the point I am trying to bring up. It is easier when there is an understanding or there is a switch because when one bank's

ATM is down, the other ATM from the other bank is able to cater for your financial need at that point in time.

MR. A. DODD.- If I may add to that, you are quite right. It is very good for the customer when there is interchange. Just to go back to point of depreciation and the cost, one of the unforeseen cost that a lot of people do not realise is the fast moving way technology goes. So, for instance, you know everyone is introducing chip cards for security reasons, to make an ATM, 'EMV (Europay, MasterCard and Visa) enabled' as we call it, at a huge cost to have all that tested before the schemes people tested of every acquirer that you acquire. Those ongoing costs, you cannot always know when they are going to come up because technology does move that fast. Upgrading ATMs, you know, they now have ATMs that have security packs in them which are very, very important but to switch out ATMs, you know you weigh up that risk all the time.

Out of the 11 Pacific Islands Countries I look after, Fiji and PNG are very well blessed with interchange that they have already. None of our other Pacific Island Countries have any interchange whatsoever, so in your case, you would need to go back to your branch to get some cash because it just does not work on other banks' ATMs or EFTPOS unless it goes through schemes. So, Fiji is already very well blessed with PNG on having banks interchange in place.

MR. CHAIRMAN.- Thank you very much. Are there any further closing comments from Mr. McCarthy?

MR. K. MCCARTHY.- Just to say that once again, it seems that there is a commitment to go forward with this, so we remain firmly committed to saying that if the Government is sending this forward, we are on board, and that we feel we need to be very involved in the development of it and also the very key point is, we need time to make this happen.

MR. CHAIRMAN.- Thank you very much, Mr. McCarthy, and members of your Association. We all know that our country has been through a very severe natural disaster and we have all been involved in rehabilitation works, that probably explains the tiredness in all the Honourable Members here. We have been up most of the nights trying to distribute relief supplies, and some of your Association members and all the banks have, in fact, contributed to the efforts, for which I thank you on behalf of the Government.

In this current times, we in fact had adjourned the meetings, but we thought that the economy has to run, the Parliamentary business has to run, even in times of great disaster. We need to continue with our work, that is why we thought that because we have to report back to Parliament in the April session, we decided to continue with the meetings and I am grateful that all your members turned up to make your presentation.

HON. B. SINGH.- Mr. Chairman, I apologise for interjecting but as alluded to by Mr. Chairman, your fast response with the new financial package that you have offered, on behalf of all the Fijians, I would like to thank you all for your financial support in coming up with that package for soft loans. Thank you very much.

MR. CHAIRMAN.- I was coming to that but I thank Hon. Singh for reminding me on that.

On behalf of the Committee, thank you once again for your time, and I request the panel to join us for tea, with the students who are here from USP. Thank you very much.

The Committee Interview concluded at 3.43 p.m.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS, HELD IN THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON THURSDAY, 3RD MARCH, 2016 AT 10.55 A.M

Interviewee: FIJI COMMERCE COMMISSION (FCC)

In Attendance:

- | | | |
|----------------------|---|---------------------------|
| 1. Mr Bobby Maharaj | : | (Chief Executive Officer) |
| 2. Ms. Sandiya Ben | : | (Manager) |
| 3. Mr. Rahul Goundar | : | (Market Analyst) |

MR. CHAIRMAN.- Good morning, ladies and gentlemen, members of the public, media and Secretariat.

A special welcome to the team from Fiji Commerce Commission which comprises of my good friend, Mr. Govind Maharaj, Sandiya Ben and Rahul Gounder. Thank you very much for your time members and apologies for starting late. As you know, we are all involved in relief efforts at the moment for the people who have been affected by the cyclone. All morning I have been filling their FNPF forms for members to lessen the burden on the Government. We have tried to make it easy for people to withdraw their FNPF and we are now lumbered with an envious task of building 20,000 homes around the country. So, that is the report on the disaster.

As you know, your invitation here today is on the Fiji Interchange Network (Payments) Bill 2016, a legislation which the Government intends to bring in to regulate the market as far as the plastic card transactions are concerned. There have been numerous issues raised by the smaller players in the market, like BRED Bank, HFC and even Baroda was here yesterday.

The current system seems to be a bit anti-competitive. If you own an ANZ account and you have an ANZ card, if you withdraw from ANZ (it used to be 30 cents and now it is 40 cents and I just read it this morning) but if you use the same card in BSP, it is \$1.50.

So, there is a network which involves the three big players: BSP, Westpac and ANZ which does not allow smaller players like HFC, BRED Bank and Baroda to be part of the network, and which is actually causing a bit of anticompetitive behaviour.

People choose to be with the bigger players because they have got more ATMs around the place and if you have read the Bill and the Explanatory Notes at the back of the Bill, it explains why the Government is doing what it is doing.

Government is trying to regulate the market to make it fairer for all consumers. At the end of the day, we want to make things fair for the consumers, something that the Commerce Commission and the Consumer Council are already dealing with.

What we have heard so far, we have heard from the Draftsman from the Solicitor General, Mr. Sharma's office, we have also heard from the Association of Banks and Reserve Bank of Fiji.

What the Bill will do is, it will only provide for the network, so instead of the three main players having their own network and the smaller players having their own, there will be one national network and everyone will link to that.

The initial plan is, the ATMs will remain the same, ANZ will have their own machines, BSP, et cetera will have their own machines, the receipts printing out, cash feeds, it will all be theirs. The only difference will be all the EFPTOS machines, the ATMs and the internet banking is not going to be part of this, but all the other EFPTOS machines around the country will be linked to this network which will be run and managed by the Government at a minimal charge.

There has also been concerns raised by the Association of Banks that it takes about \$70,000 to \$100,000 to set up one ATM machine in any area, and it needs to have 7,000 to 8,000 transactions per month to make it viable, and RBF told us that last year, there were 22 million transactions of ATM cards (intra bank transactions) that is ANZ to ANZ, BSP to BSP, et cetera and about 3 million transactions of interbank, where you use a card, different bank cards in a different machine.

Now, that is the area that the 3 million transaction that this Bill hopes to regulate and the banks also have a legitimate concern that if it becomes a piggyback ride for smaller banks, then why would they venture into investing hundreds and thousands of dollars in ATMs?

That is something that we have to find a balance, the banks' concern and also the consumers' concern.

As we know, the Commerce Commission is the champion of consumer rights or the rights of customers so with that brief background, I will now let the Fiji Commerce Commission team make their presentation. Thank you very much.

MR. B. MAHARAJ.- Thank you. Mr. Chairman and Committee Members, first of all, we want to thank the Committee for inviting us. I think this particular legislation has got a profound impact on the Commission and also the way the market would turn out to be in the future, in terms of competition and consumer protection.

We have briefly reviewed the legislation as well as the notes that are at the back of the draft Bill and the Commission's view generally is that this is a very important legislation, and something that is required, keeping in mind that as the Chair has rightly highlighted that in the absence of something of this nature, even the Commission has been concerned for the last couple of years in terms of the new players not being able to, let us say, interconnect. When they are not able to interconnect, what it does is, it retards their growth because the

infrastructure cost could be quite high and even if they do invest, given the cost of the initial setup, it may become something which is not economically viable.

Then we also have been seeing issues such as, let us say, the bigger players, and when we say the bigger players, we normally use the market share; what percentage of the market in the banking sector belongs to which bank?

Clearly, there is evidence to say that the top three combined share definitely boils down to above 70 per cent, which is always a cause of concern for any regulator because it gives them what we call a 'market dominion position.'

Now, in the absence of a legislation as proposed, what happens is that, they may start blocking the market saying 'well we have the market share, let us communicate to each other, let our machines communicate to each other, and when it comes to the new player, like BRED, let us say a smaller market player like Baroda and of course our new bank like HFC, they may be marginalised.'

By not allowing infrastructure sharing, what happens is that, there is duplication and wastage. In some geographical locations, because the number of customers are few, it may not be economically sound to let us say set up two or three ATMs there, and if it is setup, then it is somewhat like sending signals that either one of them may survive in the long run, and the others will be moved out or all of them may become unprofitable, and decide not to operate out of those centres.

In the past, we have seen such things happening and let us say our small maritime zones like Taveuni, whereby a particular bank has pulled out saying that 'this market is already logged by a bigger player.' They tried to enter but then, the deals are such that the customers are not switching.

What we are also using as a basis to support this particular Bill is that, just like the Telecommunication Sector, this particular Sector is similar in terms of having an off-net and on-net which means if you use the same network, you are charged a lower rate. Should you decide to use, let us say, Bank A's card onto Bank B's network, the costs are quite high.

If you look at, in some cases within the network, it is like 50 to 60 cents and outside the network it is as high as \$2. Now what that does is, it does not allow the customer to switch, it locks up the customer. When you lock up customers, you lock up the market which results in that particular player continuing to enjoy what you call a dominant position. The smaller ones are usually left at the fringes.

Now, apart from being anti-competitive, this is also anti-consumer interest because if a customer, let us say at the moment is shopping around 8 Miles, maybe there are two ATM machines there. If you have a third card, one, if you use the other network it is quite expensive and two, because there is no regulation in terms of the amount of surcharge by the traders, it even adds to that cost. You will see that in the market, the surcharge is as high as 6 percent of your transaction value.

So I think based on those premise, the Commission views that this is a very good piece of legislation. The Commission will support, let us say, in principle such an initiative because it does, to a great extent, try and fix the market failures that we have at the moment; market failures in terms of being a dominant player; possibility of abusing that dominant position; the possibility of locking out the competitors and the possibility of marginalising the smaller players.

MR. CHAIRMAN.- Is that the Commission's view?

MR. B. MAHARAJ.- Yes.

MR. CHAIRMAN.- You mentioned something like surcharge. At the moment, when we shop with the credit card at any local retailer, they have a notice out there that credit card transactions will attract a 3 percent to 5 percent surcharge on credit cards. I think the EPTFOS machines are not allowed to do that, but if you use Bank A's card in Bank B's ATM, then you will attract anything from \$1.50 to \$2. Whilst we were discussing that with the banks, the merchants and also the RBF, we were told that the credit card surcharge of 3 percent to 5 percent is the amount the bank charges, the merchant for a single swipe of the card. It is either for the merchant to pay that to the bank or it is for the merchant to pass that amount to the customer. If the consumer does not pay that, the merchant pays that because of the bank charges, so someone has to pay that. What are your views on that? How do you reconcile that fact?

MR. B. MAHARAJ.- Thank you, Mr. Chairman. This is one area that we have been actively involved in from mid last year because we are seeing in the market the mixed signals because the rate that is charged by the bank to the merchant is not clear, there is a very strong indicator that margins are being added to this. For example, Bank A does not publically disclose in terms of how much they are charging the merchants. The customers are on the receiving end because if Bank B charges the merchant 2 percent, there is no control in terms of how much the merchant will then charge the customer.

So, what we are seeing in the market is, because of that anomaly we have established a few cases whereby a mark-up is added. For example, the bank says 2 percent, the merchant says 5 percent or the bank says it is a commercial deal between the bank and the merchant, we do not charge but that is being charged to the customers.

Of course, we have checked with all the banks on the debit card, it is a no, no. You cannot charge anything on a debit card, but what we have seen is, because again the banks are not coming out clearly, there is a symmetry of information and the person or traders having this information are usually taking advantage.

We have also checked the banks' interests on credit cards and a couple of them have said that it all depends on the card that the customer uses. For example, if it is a Visa Card, then unless the law of the country allows, the rule on the Visa Card is that, there should be no surcharge unless the law of the country, which means in this case the Fijian laws, allows for the surcharge.

If you go back to 2012, at one point in time, the RBF had basically put up a circular to say “no surcharge” and a couple of months thereafter, it was removed, so we are basically back to the situation that we were there in 2012.

MR. CHAIRMAN.- Did the retailers stop accepting cards?

MR. B. MAHARAJ.- Yes, it was somewhat like a smart way of boycotting.

MR. CHAIRMAN.- We saw notices coming up outside a lot of the merchants saying that ‘we do not accept credit cards because of RBF’s directive,’ but then as you have mentioned about visa card rules, we have also heard that from ANZ Bank yesterday, visa cards do not allow surcharge but because visa cards charge the bank a substantial amount of money per transaction itself, they have no choice but to pass it on to the consumers and as you have said, there is no such law in Fiji that allows that, and there is also no such laws that disallows it. So it is a grey area which the merchants are able to exploit.

That actually follows on to the trend that we are trying to curtail here, when they have inter-bank transactions, for example, BSP will charge \$1.50 because they have to pay a certain amount to ANZ and they have to share that money. If you multiply \$1.50 by \$3 million, it is about \$4.5 million worth of transactions that are happening and the consumer pays for that. Their view is, if a single network comes in, they will still be maintaining their internal networks for their own customers. Their cost will not be reduced. I mean, this is something that probably your Department can summon some information from the banks to explain that if they are running their own internal networks, and they now have to log on to a national network for inter-bank transactions, they will be paying for maintenance of that as well from the licence fees or charges. So, at the end of the day, this plus that will mean that the consumer will pay more at the end of the day.

It is the Government’s intention, which is on page 22, paragraph 1.2, the intention of the legislature is this:

“The National Switch is an information technology infrastructure which will interconnect the payment system of payment service providers. The objectives of the National Switch are to:

1. prevent anti-competitive measures amongst payment service providers;
2. reduce the costs associated with electronic transactions; and
3. reduce dependency on cash.”

If the banks are able to again take advantage of this grey area, then 1, 2 and 3 of the Government’s intention will not be achieved. How does the Commerce Commission hopes to deal with that issue?

MR. B. MAHARAJ.- Mr. Chairman, we are dealing with the concept of interconnection and the Commission has been actively involved, let us say, in setting interconnections for the Telecommunications Sector.

Let us say, we have set the interconnection for all the international in band minutes, for example, if a company in Australia sends minutes to Fiji and it comes to Operator A which then terminates on Operators B's network. It is the concept of interconnection, so the same thing applies in the banking sector when the two machines of different network operators start talking to each other.

Now, the way we have done it is on a cost-based approach, looking at the cost of interconnection, whether the ATM machines are interconnecting or the switches of the telecommunication sector is interconnecting or let us say, the proposed e-ticketing where the network of two operators will still be interconnecting, the cost is usually the same for interconnection. Let us say, the mobile termination rate at the moment is 10 cents per minute.

Let us say, Bank A charges its customers 40 cents per transaction, the only additional cost to the second operator would be the cost of interconnecting.

Let us say if you look at the telecommunication sector, it could be around 10 cents. Now, if you look at the entire telecommunication sector globally, it is even on a 'blight path approach'. We have got interconnection raised globally, which are as low as a cent or two, but of course we have to be mindful that they got economies of scale, a larger customer base, Fiji, let us say a smaller customer base with pretty good penetration ratio in terms of connectivity.

So, our suggestion would be that there be a need to recover cost but it should not be anything more than what you are charging your customers, plus purely the cost of interconnection No mark-ups ...

MR. CHAIRMAN.- No, mark-ups.

MR. B. MAHARAJ.- ...and for that to happen, I think what will be critical is to look at a bank by bank situation and say, out of the total volume, what percentage is within the network and what percentage is outside the network then what is the cost of, let us say, setting up that machine.

MR. CHAIRMAN.- Right.

MR. B. MAHARAJ.- Then say well this percentage is covered from your own transaction and this is the percentage that is covered from the competitor's network's transaction and you split the cost accordingly.

Now, there is always a possibility, let us say, in terms of the banks saying, why should we invest \$80,000 to \$90,000 when someone comes and uses this free?

Now, there was a suggestion once that to develop what we call an "infrastructure sharing policy." So, let us say if I am Bank A and I have got an establish network in Fiji, he comes from Bank B and he wants to use my network, he can always pay a one off fee for the use of that, maybe 20 per cent of the total cost.

I am sharing the experience that we have got for our lending station, we got a monopoly at FINTEL site, FINTEL lending station for viber.

MR. CHAIRMAN.- All the international are connected through this?

MR. B. MAHARAJ.- Now in 2009, it was a close market, in 2010, we deregulated and the ruling that we have made is saying that anyone can lend there, you pay 20 per cent of your lending cost initially and you continue to pay repairs and maintenance cost of, let say, \$4,000 every month.

Now, by doing so what we are trying to ensure is that the connectivity continues, FINTEL does not lose out because they have invested, but the customers are not charged an inflated rate when it comes to the retail end. So, maybe what we will suggest is that we look at interconnection, we can look at the concept such as how much does it cost to talk within the network and what is the additional cost for talking to someone else and say that your off-net should not be anything more than your on-net, plus the interconnection rate.

MR. CHAIRMAN.- Would you have any statistics on the number of credit to debit cardholders in Fiji, for people who use ATM cards?

MR. B. MAHARAJ.- Mr Chairman, unfortunately we do not have that precise stats at the moment.

MR. CHAIRMAN.- You do not have.

This was something that I questioned or posed to the Association of Banks was this, and is also a consumer friendly question. Are the banks scared that if they have invested in a market like Korovou as Hon. Singh pointed out earlier, or Taveuni island, they need to have 7,000 to 8,000 transactions but if they allow other banks customers to use that ATM at a lower cost, then they might achieve that because every other cardholder is scared to go to the ATM at the moment because of the hefty charges. If it is reduced to 20 cents or 10 cents or 30 cents that we pay to our own individual banks, then their problems are unfounded and they will have the market. It is question of cost because people at the moment, I mean, I can speak for myself if I have to withdraw from BSP, I withdrew larger amounts of money so that I do not have to withdraw two or three times during the month to incur the charge. If 30 cents, I do not mind if I withdraw eight times, it works out the same.

Now, this is something that probably the banks could be explained from the consumers' perspective which is your authority that if you open the market, you will have the economies of scale, you will have the numbers there.

I was hearing the Manager of BRED Bank yesterday and he was saying in France (which is of course a larger market with about 60 million people), they have a zero-charge for any ATM transactions, with unlimited number of withdrawals, credit cards, no surcharge nothing, but all they have is about \$25 or EUR25 when you get your card monthly fee, I think

\$25, which you pay \$50. Our visa card attracts \$50 per year - a one off payment for a card fee. That is what they do, EUR25 and everything else is free. What that encourages is actually help us to achieve our Pillar 3, that is, reduce dependency on cash.

Now that is something probably your area where you can discuss with the banks and help the Government achieve this Pillar 3 and reduce the cost. How you do it? I do not know the mechanics of it, as you have explained, if the minimal charge is probably 10 cents per transaction, that is costing the bank. Say if the charge on a \$40 or \$50, and \$1.40 goes somewhere, it is probably a mark-up.

Once we see the stats we can then determine, and I think Reserve Bank will come in handy here, they are going to regulate the charges under this Bill or later on Act so that probably takes a bit of a burden off you, but at the end of the day, all we want to do is to get the consumers. If not free, at a minimal charge for plastic card transactions.

Do Members have any questions? The Hon. Nanovo is a very senior banker, he has been with FDB for a long time, unfortunately they do not have ATM cards.

HON. RATU.S.V. NANOVO.- Thank you, Mr Chairman. Firstly, I would like to thank the team for their presentation this morning. I also want to address that they are very supportive of the Bill that is going to be discussed in Parliament and that is why we are glad that they have done their homework on this one also, especially some of the key areas that we were not clear about yesterday, they are able to briefly tell us of how they are going to work out the cost involved. If this will benefit the customers, why not, go ahead with it. Thank you.

MR. CHAIRMAN.- Hon. Singh, a former FICAC Officer and very experienced in fraud.

HON. B. SINGH.- Thank you, Mr Chairman. I just thank Mr Maharaj for his presentation. It was a well-presented document this morning.

Just a question that I want to raise is the question of the charges, I meant the cost of installation of ATMs. The bank says \$70,000 to \$100,000. Do you know the actual figure of that installation cost because my question to them yesterday was on depreciation? That machine is depreciable and FRCA allows five years to depreciate and that still carries in the book after it was first written off. They have not changed their machine. They are still using that but they are saying the cost is very high. Do you know the actual cost of installation because according to one of the sources from the banks, from one of the competitors, it is not more than \$50,000? I got it from one of the bankers. Do you have any idea on that?

MR. B. MAHARAJ.- Thank you. We do not have any precise number for that but I totally agree with your comment that when you look at an ATM, it is deemed to be a fixed asset and then the cost is amortised, let say over a period of five years. So, the cost recovery is for the first five and the rest then because they continually use it. It is just a matter of servicing with minor repairs and it continues. So they will recover the cost in five years because depreciation we recognise as an expense and that will then affect their taxation.

So it is recovered and that is the reason we are saying that if we are looking at this, the interconnection should be purely the cost of interconnecting, that is all, because the rest mostly will be taken care of:

1. via their own customers;
2. could be through the merchant fees;
3. through depreciation and;
4. in the worst case scenario, because they may be having some agreements already, they may have recovered part of this cost with the competing network.

So, I think if you look at in the broader scope of things, regardless of whatever the cost is, it may not be beyond six years in terms of amortisation, so they will recover and then the rest becomes a gross margin for them because there is no expenditure, except for the two machines to talk.

HON. B. SINGH.- On the same token, for repairs and maintenance, that is the cost that has already been accounted as an expense in their operating cost. That was my question to Mr. McCarthy yesterday, but his reaction was different so I thought I might get your views on this.

MR. B. MAHARAJ.- Maybe, to give some indication in terms of the fees and charges versus the interest rate, I think it will be good for the Committee to have a look at one or two Financials that are published on the Reserve Bank of Fiji website, and to see the operating cost of a particular financial institution and then calculate what percentage of that operating cost is taken care of by fees and charges, and what percentage is taken care of by interests. I think the results will speak volumes in terms of their ability to recover almost all their operating costs with just the fees and charges. When you make that assessment, it sends signals that some of these fees and charges are quite high. One of them could be the cost of using the computer network: firstly to profit from it and secondly, to lockout your customers, so I think one of the good indicators would be to maybe, pick up one or two and then say, well, "Let us look at their operating cost and see what percentage of that operating cost is covered by fees and charges." In some cases, almost 100 percent.

MR. CHAIRMAN.- There was another issue that I had raised and pointed out to the bank that at the moment, it is their separate networks – the big three players have a network and they have their individual networks. For example, if the ANZ network is down, you can always go and swipe your card at BSP or vice versa. However, with the single network system, if that is down, then the entire electronic banking transaction system will be down for a few hours or a day. That will actually be a loss to businesses and consumers as well because paper transactions cost you about \$2 per withdrawal. So, there is a need for a robust or backup system to be available at all possible times; do you have any views on that?

MR. B. MAHARAJ.- I think that is always going to be a risk, it is something similar to say, electricity. If Monasavu goes down, almost like the entire country is down, except the ones that are connected to the smaller units. So, with a single national switch, I think we can never rule out that possibility of, let us say, the entire system being disrupted, should something of that nature happens. However, the critical question would then be, how long will those

disruptions continue, is it going to be for an hour? Even if it is for an hour, it may affect markets and even tourism because when the tourists come, I think, it basically completes that Pillar 3 which says that we are basically trying to minimise people carrying cash. So, when tourists normally come, even a disruption for a couple of minutes can be pretty damaging and pretty much an inconvenient factor. I think that is a risk that has to be assessed.

MR. CHAIRMAN.- Like airline tickets, if you miss it by a minute, you might end up paying \$200 extra. So, if the network is down for five minutes (it happened to me), for a minute it was about \$300 and the next minute it went up to \$500.

HON. RATU S.V. NANOVO.- Thank you, Mr. Chairman, listening to the presentation from the combined banks yesterday, Mr. Maharaj, the major players in there tend to disagree with the new system that we want to put in place as compared to the smaller banks. What is that, is it because of the profits that they are getting out of the fees that they are charging at the moment or what do you think?

MR. B. MAHARAJ.- I think there could be two reasons for it; firstly, as you have rightfully said is because they are making supernormal profits, they may not be prepared to normalise the profit because they are earning supernormal profits, they would want to maintain that. With this new system, what would happen is that, that supernormal profits may erode and become a normal profit.

Secondly, it could be their attempt to ensure that their market share is untouched. Put the fees and charges in such a way that the computing networks are not able to compete with them, and they are able to maintain and consolidate their market share. I think it could be more so to try and keep the competitors at bay, let them be small, whereas for them, it is all a matter of either growing and if they cannot grow, then consolidate their share and say, "I should not be losing out."

HON. RATU S.V. NANOVO.- While we are still on that, Mr. Chairman, if this Interchange Network (Payments) Bill 2016 comes into place, the fees will go down and the major players, because they have so many ATMs around the country, they will still be enjoying that super-profits, are they not? Many people will be using the network but they have many ATMs which they will charge internally, is it not?

MR. B. MAHARAJ.- I totally agree with that because while the fees may come down, the profitability will not be driven by pricing but by the volume because if you look at it, there are two ways to maximise profits. At the moment, because they can lock out the market, they may be making profits by maximising pricing behaviour. Once there is an equal platform, then that particular conduct may disappear and they will have to fight for the volume. So, at the end of the day, it could be that the profitability remains but rather than being a profit from pricing, it will be driven by volume.

MR. CHAIRMAN.- Actually, that sort of behaviour is anti-competitive, is it not? According to the Fair Trading Decree, 1992 which is now being repealed by the Commerce

Commission Decree 2010, if the larger player is making super profits by closing the markets, that is anti-competitive behaviour.

MR. B. MAHARAJ.- Yes, Mr. Chairman, that is deemed to be a restrictive trade practice.

HON. RATU S.V. NANOVO.- Mr. Chairman, it is for the Authority to decide how many machines each bank can place under the Authority so that the network can have an equal share of the profits going to all the banks.

MR. CHAIRMAN.- The problem with that is, HFC might not be able to set up 100 ATM machines but ANZ will be able to, so if HFC sets up one, we cannot close all the other ANZ ATMs. Probably, a ratio with the market share would be the issue, but I was surprised to know that the EFTPOS machines do not cost more than \$100 a unit whereas the ATM machines cost \$100,000. Maybe EFTPOS machines would become more fashionable if the Bill is passed.

Is there any section or any additions you wish to say, from the consumers' perspective?

MR. B. MAHARAJ.- Yes, Mr. Chairman, whilst going through the Bill, I see that the intention is to start with the banks and then move into other areas, like mobile money, et cetera. I think when the final Bill is being considered, it will be important to also consider the second provisions of the Commerce Commission Decree 2010, especially to do with Parts 3 - Access Agreements, and also the principle of interconnection because at the moment, the Decree already allows for access agreements to be made and that should be in consistent with the requirements under this particular piece of legislation. Let us say, there is a possibility for it to be extended to say, mobile money, there is already a prevailing rate in terms of what this mobile networks can charge each other.

Secondly, that has also been extended to the proposed E-Ticketing, the rate for inter-connection has been set at around 2 percent.

Maybe, when the final consideration is given, especially for the second part of the market, at the Moment, there is no regulation from the FCC. In terms of the banking sector, it is all managed by the RBF, except the conduct if it is unfair or assertive, then FCC gets involved.

However, in terms of the second layer of the market, there may be a possibility that certain provisions may start overlapping with this legislation because in terms of Part 5(a), it is purely on the telecommunication sector and of course the mobile industry is one of those dominant in terms of the telecommunication sector.

So that is a caution maybe when this is considered, perhaps that could also be looked into when we are looking at the second layer of the market.

The other one is we have seen, let us say, it requires that the parties to get into an agreement on their own and a copy to be deposited with the Authority. Our assertion will be

that when we are talking about that particular document from the network operators, perhaps consideration could be given to ensure that the agreements are not in such a way that it brings about exclusivity or price discriminatory behaviour or let us say '... results in the exclusion of the others for the benefit of a particular party.'

So those are the preliminary comments to say that we support the legislation as it is, but maybe when it comes to the agreement and so forth, it should always tie up, let say with this, as well as maybe if we look at the Telecommunication Authority of Fiji Promulgation, because it also deals with the telecommunication sector, our concerns are basically based on the second layer of the market which is what may happen after the banking sector.

MR. CHAIRMAN.- You have noticed that under Clause 8 of the Bill, there is a formation of the Board. The Reserve Bank suggested that they wish to be represented on the Board as the Association of Banks, they wish to be represented. Does the FCC wish to be represented on the Board as well?

MR. B. MAHARAJ.- Mr. Chairman, I think if given the opportunity, we would love to be on the Board, especially to ensure that the agreement they signed are not restrictive or they do not enter into agreements which basically says "let us continue to abuse the dominant provision but by legal means now." The scrutiny of the content of the agreement is really critical.

MR. CHAIRMAN.- As the consumer authority, you will be in a good position to control the conduct of the Board and the plans?

MR. B. MAHARAJ.- Mr. Chairman, just to add on to that because when it comes to the telcos sector that is in the other types of the market, there is already a requirement that if any telcos in Fiji are entering into any access agreements, they must register that with the Fiji Commerce Commission and a public register is then created.

So let us say our concern again is in terms of the second proposed expansion or the extension of this legislation to the other areas because under the Decree, if let us say, mobile operator A is entering into any access agreement with mobile operator B, then a copy of that access agreement is to be registered with FCC and when it is registered, we do look at the content and say "this may be discriminatory, this will be anti-competitive, this particular clause needs to be thrown out and replaced with something that is consistent with this."

MR. CHAIRMAN.- We have the market analyst here and also Ms Sandiya, do you wish to add anything to what CEO has said?

MS. S. BEN. – No, Sir, that is fine.

MR. R. GOUNDAR.- Thank you, Mr. Chairman. We concur with the submissions from our CEO.

MR. CHAIRMAN.- Thank you. If we have any further questions or queries from the submissions that will come after you, we will email to the CEO and perhaps the Analyst can assist in getting some data for us in that regard.

MR. B. MAHARAJ.- Mr. Chairman, I think we stand prepared to assist the Committee in whatever way the request may come.

MR. CHAIRMAN.- Thank you, very much.

HON. B. SINGH.- Through you, Mr. Chairman, Mr. Maharaj just an observation; the robustness of this system that will be implemented, do you think there will be economics stability, financial stability and payments stability? Also if Fintel could take up this new change to shift? Do you think that they are prepared for this type of shift?

MR. B. MAHARAJ.- Thank you, Sir. I think our experiences in terms of regulating various markets over the years have been that there may be signs that people will rebel at the beginning, but gradually in this short to medium trend, the market fixes any possible anomalies and so forth. I think generally this will promote greater efficiency in the entire system because then to maximise profits, you have to be cost cautious rather than saying that "I can be inefficient and passing the cost." I do not really see it from the Commission's perspective that the market would be distorted or it will become something that might basically start keeping the players from becoming weaker.

You might come across this, let us say in terms of some of them saying that 'we will fail, this will push us towards failure' but in terms of, let us say, prices in terms of regulating the conduct in the last couple of years, we have seen that these are always the first response from those that are being regulated, but the market will fix this.

HON. B. SINGH.- Do you think there will be any security issues in the implementation because of people coming on network and the increase in cybercrimes; do you think the security would be a problem, from the banks' perspective?

MR. B. MAHARAJ.- Sir, I think if you look at it, there is a particular possibility there at the moment as well. If it has to happen, it can happen under the current system and if it is likely to happen, it can also happen in the new system.

So, it is not something that this thing would be driven truly because of the change in the paradigm. That risk is something that we always have to be prepared for and to be more so in terms of how each individual banks manage that risk.

MR. CHAIRMAN.- There being no further question or comments, I thank the team from the Fiji Commerce Commission for their time this morning, which they took out to come before the Committee and to assist us with the work on the Bill that is going on. As I said, these are extraordinary times for the country, there are lots of involvements in the disaster relief and our entire Government team and also the Opposition team are out there helping people, but the work of the economy must go on; the country must go on; and the work of Parliament must

also go on; and that is why we have to convene the meeting and deal with the Bill so that we are able to present this in time in the April session.

For that I am grateful that the Fiji Commerce Commission took their time out as the body responsible for consumer rights and implementation. I read in the papers lately that the Fiji Commerce Commission has fined some hardware shops that were overcharging people, so a very good move on that.

There have been a lot of price hikes in supermarkets too, perhaps we can also look into that and I will provide the information.

So in all, the Government, the Opposition and your body is here to serve the people of Fiji and thank you for the good job. Thank you, very much.

Your team are invited to join us for tea and Members will have our next session at 12 p.m., with the Consumer Council of Fiji. Thank you very much.

MR. B. MAHARAJ.- Thank you, Mr. Chairman.

The Committee Interview adjourned at 11.43 am.

The Committee Interview resumed at 12.15 p.m.

Submittee: Consumer Council of Fiji

In Attendance:

- | | | | |
|----|-------------------|---|--|
| 1. | Mrs Premila Kumar | - | Chief Executive Officer |
| 2. | Ms Bindula Prasad | - | Project Manager |
| 4. | Mr. Kushan Prasad | - | Manager Research and Policy Analyst |
| 5. | Mr. Navin Yogesh | - | Research and Management Advisory Officer |

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MR. CHAIRMAN.- Thank you very much, Honourable Members, members of the public, the media and the Secretariat, once again I convene today's meeting.

A special welcome to the team from the Consumer Council of Fiji which comprises of the Chief Executive Officer, Mrs Premila Kumar; Project Manager and Legal Officer, Ms. Bindula Prasad; Manager Research and Policy Analyst, Mr. Kushal Prasad; and Research and Management Advisory Officer, Mr. Navin Yogesh. I welcome you all this morning and I thank you for taking your time out in assisting our Committee of Justice, Law and Human Rights in reviewing the Fiji Interchange Network (Payments) Bill 2016.

The Committee is tasked with this important task to review the Bill which deals with a lot of consumer issues and to present its report to Parliament in the April session.

We have heard the Fiji Commerce Commission this morning and the Consumer Council's views are very important to us on what they think of this Bill. As you all know, and as I have mentioned in the start of every session, that our country is going through extraordinary times. We have been hit by one of the worst disasters ever in the history of this country and most of us, the Government and the Opposition, are all involved in rehabilitation works around the country.

I was reminded to adjourn the sessions this week and last week to assist in the rehabilitation works but as we say, the country must go on, the economy must go on and we must continue with our work so that we are in time to table our report in the April session.

We are grateful that the Commerce Commission and the Consumer Council have taken the time out and I know you are tasked with a huge responsibility as well. We have seen some unscrupulous activities going around and consumers have been affected and I think you must have had hundreds and thousands of complaints with you at the moment.

With all that, you have taken your time out to be here and I thank you for that. I will now request you to make your presentation to the Committee.

MRS. P. KUMAR.- Mr. Chairman and Honourable Members of the Committee, I would like to thank you for giving us the opportunity to comment on the Bill.

For record purposes, I wish to say that we were never consulted initially, so this is the first time we have seen a Bill and we are grateful that at least at this stage, we are given an opportunity to comment on it.

Today's presentation will be in two parts. I will deliver the first part and I will give justification as to why the Consumer Council supports the Bill. The second part of the presentation will be presented by Ms. Bindula Prasad, who will specifically comment on the Bill itself. We will start off with my presentation and I will do a power point one.

I would like to talk about the Government's vision, which is to modernise Fiji's financial system and it really is to move towards the less-cash economy by using electronic payment channels. So, there is a huge shift towards technology-based financial system and the National Switch will definitely assist the Government to realise this vision, whereby the different payment systems will be linked to this common network. I believe this is a significant development for a small country like Fiji.

On technology based financial system, if you look at the current system, what do we have in the market place? We have ATMs, EFTPOS machines or point of sale terminals and mobile payment system. Those are what we have. Currently, each service provider is guarding its technology for its exclusive use, and this is reducing competition and innovation, particularly in a free market economy. We need to free it up so that there is more competition.

Consumers generally use ATM machines only for cash withdrawals and to check their balance, that is all. A centralised interoperable infrastructure, which is the National Switch that we are talking about, will definitely enable consumers and businesses to move beyond that, not just getting the withdrawals or checking balance. It will allow money transfers between customer accounts in different banks through mobile phones in real time. That is the vision.

In years to come, the mobile phones will be really the bank through which you can do all your banking transactions. ATM machines, which are generally used for withdrawals and balance enquiries will then shift towards cash deposits and money transfers, so consumers can do both through an ATM. So, an ATM itself will become a mini bank.

There will also be an opportunity for non-banks to set up ATM machines, so that will create more businesses and the vision that the Government has for this technology-based financial system will roll out with this National Switch.

The survey conducted by the Pacific Financial Inclusion Programme indicates that 60 percent of Fijians hold accounts with banks or with financial institutions licensed by the Reserve Bank of Fiji (RBF), and there are six banks which are licenced by RBF..

Now let us look at the problems faced by consumers in the market place with ATM being available and with mobile phones as well, which is sort of limited in its services.

Consumers are facing problems and these are poor ATM access in remote areas, lack of choice and convenience, lack of competition and transparency and consumers actually paying high prices to access their own money.

Now when we talk about accessibility, let us look at the ATMs, which bank owns how many ATMs and you will find that BSP owns the majority of ATMs, a total of 104, as compared to other banks and you can see the percentage given out.

So, the three smaller banks like BRED Bank, Baroda and HFC, the account holders of these smaller banks, they have limited access to ATMs, simply because these banks own very few or small number of ATM compared to the three big banks. So, that automatically restricts consumers to access ATMs and if they do, then they have to pay a higher price.

Now, let us look at the bank profits, if you look at the bank profits, you will see that Westpac and ANZ banks had made maximum profits in 2014, as well as in 2013, and then we have BSP that made a profit of \$20 million plus. Now, if these banks are making a lot of profits, we would like to see investments in the area of ATMs as well, because that is where accessibility is.

ANZ and Westpac, they have the larger market share and also they have more profits as compared to BSP, but BSP has more ATMs, as compared to ANZ and Westpac that have been in the country for hundreds of years.

MR. CHAIRMAN.- I have a question on that Mrs Kumar. I just took a photograph of a notice poster outside ANZ bank's ATM this morning and it says that "from 9th of March 2015, the ATM electronic withdrawal fees has gone to 40 cents from 30 cents, EFPTOS purchase and withdrawal fees 40 cents, ATM interchange fee \$1.50 and the other is Home Loan approval fee, et cetera."

Does your body, the Consumer Council, have the powers to regulate this or to ask them a question of why they are putting it up when the minimal charge, as explained to us by Commerce Commission, was it is not more than 10 cents?

MRS. P. KUMAR.- We do not have any powers because we are actually a consumer watchdog, which means that we represent consumers and bring the issues forefront and we are simply the voice for the consumers, highlighting their grievances, and being a pressure group, our job is to put these banks on the spot and generally we question them on issues of these nature. The only body that regulates the price is RBF.

So, whenever we communicate with RBF or even with the banks, the banks will turn around and say to you 'what is your problem, these fees were approved by RBF'. So, what do we do then?

MR. CHAIRMAN.- Did you receive any complaint in regard to what I have just read now.

MRS. P. KUMAR.- Absolutely. People are complaining about high fees and charges and if you recall, in 2011, the Council conducted a research on banking services and it was with the help of the business community and NGOs that we made a submission to the Fiji Commerce Commission and we said "there is an anticompetitive behaviour and you need to look at the bank fees and charges" and because of the pressure we were putting on the

Commerce Commission, we are taking the angle of anti-competition so, RBF has to look smart and had to look good. So, what did they do? They themselves removed 11 different fees and charges, but what we have seen now, despite the 11 fees and charges being removed completely, we have noticed that their profit margins have not come down.

MR. CHAIRMAN.- It is probably because whilst they have removed 11, they hide the charges in other areas.

MRS. P. KUMAR.- Exactly, and that is what we are seeing.

MR. CHAIRMAN.- That is defeating the intention of the Government and the Consumer Council to protect the consumers.

MRS. P. KUMAR.- Exactly. I totally agree with you, Mr. Chairman, because what we have found that very recently, a number of banks have come up with this account maintenance fees and it just baffles you as to why you have to pay account maintenance fee.

In fact, I would like to also question as to why consumers have to pay money, just because they want to know how much money they have in their account?

MR. CHAIRMAN.- Yes, yesterday morning, we had a paper circulated by the Research Team, a consumer checked his account balance four times at the ANZ ATM to see if his salary has arrived, and for all those four transactions, he was charged 60 cents per transaction.

MRS. P. KUMAR.- Agree. That is the reality in the market. I mean, withdrawals, I understand that is transfer of money and what not, but just checking my account.

MR. CHAIRMAN.- If you request for inter-bank transaction, even if the transaction is refused, I think you are charged that inter-bank connection fees. So, it is unfortunate and it actually borders on unethical practices too.

MRS. P. KUMAR.- It does and as I go along with my presentation, there is a section where I will be talking about RBF and my personal view is that, they have not modernised over a period of time and they are still sitting in a colonial era, not trying to see how modernisation in banking sector has taken place and how they have to do things differently.

It is really sad to see that the Commerce Commission comes up and says 'Okay I fined the shop down the road for charging 2 cents more', but here, because we are talking about financial products and this is a very complex issue in the sense that consumers cannot feel, they cannot touch, it happens virtually and because of that not close linkage, they are not able to understand the cost of borrowing and more and more unethical practices are seen in the financial sector.

Unfortunately, with due respect, even the policy makers, some of them, they are not able to understand this and therefore, they shy away from this topic because of lack of knowledge. One can be highly educated but if you are not in the financial sector, sometimes it becomes hard to understand their subject because it is so specialised, and I understand that.

So, a lot more work needs to be done in this area and unfortunately, we do not have a regulator that can truly look after consumer interests as we have seen in many other countries.

Even USA has moved away from just prudential regulation to consumer protection because if consumers do not have the money, forget about the quality of life. So, we need to link all these together and more work needs to be done in that area.

MR. CHAIRMAN.- And if consumers are not able to spend, they do not have the money to spend, the economy goes down naturally.

MRS. P. KUMAR.- Exactly, because consumer confidence is very important. So, you can see it is all connected.

What we are saying is that, if the State leaves it to the market players, ATM growth will be very slow and Government's vision, which is technology-based financial system, will never be realised as we have seen. If it was not for BSP, we would not be having that many ATMs.

(shown to Committee) This is the slide which shows the ATM locations around Fiji and how it is spread out in different locations and our findings show that majority of the ATMs are in the Central Division.

MR. CHAIRMAN.- Majority of the ATMs are in the Lami-Nausori corridor.

MRS. P. KUMAR.- Yes, and if you look at it, majority are in the Central Division, as compared to other three Divisions. So, if 54 percent of ATMs is in the Central Division, then less than half, which is 46 percent of ATM, is serving three divisions, which is Western, Northern and Eastern; Ba has eight ATMs, whereas Sigatoka has 17 ATMs, and we are questioning, is it based on population or how is it based? ATM access, definitely in remote areas are extremely poor.

Now let us look at the cost of using ATMs. We have noted that fees and charges for withdrawals vary and the charges are low if consumers are accessing ATMs where their accounts are. The charges are high because of the interchange arrangement when a consumer is accessing a rival bank's ATM. We generally question why that is so.

We are giving few examples. There is only one bank providing ATMs in Pacific Harbour, Navua, Korovou, Taveuni and Levuka, and here, a consumer's choice is limited. Consumers do consider availability of ATMs when they decide a particular financial product which they want to buy from a bank and when the ATMs are not there, then they are discouraged to do so.

So, ATM accessibility does prevent the smaller three banks to actually increase their customer portfolio, and also for consumers to switch banks when better products are introduced in the market. Unfortunately, this slide is rather tiny but that slide shows the interchange fees, along with free withdrawals and withdrawal fees. So, it gives a complete picture of what is happening in the marketplace, when consumers wish to withdraw money or they want to check their balance.

Now for balance inquiry, you will see that Westpac Bank, Bank of Baroda and HFC provide the services free, whereas other banks charge a fee that ranges from 35 cents charged by BSP and 60 cents by ANZ.

So, the question is; how come the other banks are able to provide that service free, whereas these two big banks and particularly ANZ, are making huge profits and charging 60 cents, not even 35 cents as BSP is doing?

Free withdrawals are seen mainly being offered by Bank of Baroda. They allow six free withdrawals for electronic debit card and one free withdrawal by ANZ for Pacific Saver. Westpac allows two for electronic transaction account and six for youth account, other than that, there is a fee for withdrawal. Now, the fee for withdrawal ranges from 25 cents for Bank of Baroda, 30 cents for HFC, 40 cents for Westpac, and 45 cents for BRED Bank, ANZ and BSP.

Withdrawal fee at rival banks, because of the interchange fee arrangement, varies from \$1 to \$1.50. Currently, HFC is charging consumers 40 cents for withdrawing from Westpac ATM, and the reason being, HFC is paying 60 cents from its own pocket just to hold the customer base.

Now interchange agreements, you will see that ANZ has an agreement with BSP and Westpac, and there is a standard fee of \$1.50. BSP with ANZ and Westpac again, the amount is \$1.50 but when BSP has come together with Bank of Baroda, the rate is only \$1. Now, Westpac has an arrangement with ANZ and BSP, again the fee is \$1.50 but their arrangement with HFC is only \$1. Now, HFC with only Westpac, the arrangement is \$1 but consumers pay 40 cents because of 60 cents going from HFC. Bank of Baroda with BSP, they have to pay \$1.50, I mean, what kind of relationship is this? BSP and Bank of Baroda, BSP charges \$1 and Bank of Baroda has to pay \$1.50, so it is not making sense here, but BRED Bank, there is no arrangement.

If you look at the whole scenario, you will see that ANZ completely closes the door for three small banks for whatever reasons, I do not know.

Westpac has a fair arrangement with HFC where both parties pay \$1 each, but BSP is using the bullying tactic where Bank of Baroda customers using BSP ATM end up paying \$1.50, but when BSP customers use Bank of Baroda ATM they only pay \$1. So, it is not making sense. What can the small banks do?

Again, looking at the ATM charges, there is imparity of fees approved by the RBF and this is the gripe we have, because we feel that some of these fees and charges should be based on the real cost, and they should reflect cost recovery and not profiteering. The question is; whether RBF is really the appropriate regulator for consumer financial protection?

In my view and the work that we have done in the financial sector over the years, we have found that RBF openly says that "you know what, we are the prudential regulator and we do not want the banks to go belly up", but what we have found is when consumers go belly up, it is alright. So, we need to fix that and create a level playing field for both, consumers and the banks. We are not anti-profit, we are not anti-investment, we are looking at creating a better system that will help both the parties and not just one.

MR. CHAIRMAN.- Do you have data of the minimum cost of having an inter-bank transaction?

MRS. P. KUMAR.- Actually, we would never have that information because that information is guarded secretly. I think this is where the Committee should be asking the RBF, as a regulator, to provide that information for your knowledge, if they can give you the situation in the ATM industry and that would give you a better view of what is happening in the sector.

MR. CHAIRMAN.- There was something that you had mentioned in your submission which is strikingly true, and that is the cost recovery and not profitability that should be the target when there is an interchange transaction or inter-bank transaction. If the cost is a minimum of 5 cents to 10 cents, then there is no reason why \$1.50 should be charged and that money pumped in the profit sector.

MRS. P. KUMAR.- Yes, and that is anti-competition as well. This has been challenged. Class action has taken place in Australia because of this type of fees that were introduced. In fact, the consumers, through class action, won but ANZ Bank has appealed. So, that will set the precedent and let us see what happens at the appeal.

MR. CHAIRMAN.- Secretariat, can you make a note, we need to write to the RBF that we require them to produce the charges or fees structure so that we are able to make a fair decision.

MRS. P. KUMAR.- Anti-competition is rife. You can see that the three smaller banks, like HFC, Bank of Baroda and BRED Bank have great difficulties in obtaining an interconnection arrangement with the three bigger banks. It is just crystal clear, BRED Bank is still struggling to get this arrangement with the other banks. However, you have seen how the three big banks they have come together. They have colluded nicely, they have set their rate of \$1.50, they have received maximum customers and they are making maximum profits whereas the smaller banks, they are not trying to help them at all.

Our concern is that, in my view, it is a case of collusion when you look at the data and considering they have the bigger market share, profits and the outreach. So, what happens to the other three small ones, are they trying to tell them; "pack up and leave", which will not be good for the economy.

So, ATM accessibility does prevent the smaller three banks from increasing their customer base because why would consumers pay higher fee for interchange rate.

International experience, in countries such as UK, Germany and France; bank customers have access to all ATMs in the country free of charge, except when cash is withdrawn from ATMs managed by non-bank entities.

Non-bank entities would be ATM that is provided by a non-financial private company, so a private company just sets up the ATM because really with ATM, if you look at the way ATM works technically, it has nothing to do with the bank, but with ICT and Telecom, that

is how the set-up is. So, that is why in many countries, ATM is now opened up to non-bank entities. So, they come into the picture, even Australia has done that recently.

For Australia, what they did, they also looked at this issue very closely and they have come up with disclosure of ATM charges before a transaction is made. So, consumer has the opportunity for the first time to see what he or she will be charged and if that fee is high and they decide not to proceed, the bank cannot charge them any money. So, that is the arrangement.

They have also set up non-banks to open ATMs in remote areas for indigenous consumers. So this is the recent development in Australia, India, Rwanda, Mozambique, Bahrain, they have a National Switch just like what we are talking about today. So they have a similar system.

Now, I also like to share concerns raised by the Association of Banks. When this particular legislation was being talked about, ABIF came out openly and said that it understood although efficient for customers in that they can access their funds through any ATM machines, implementing the new system also means possible loss in revenue for banks because they will not be charging current fees for the use of ATM machines. So, that is their worry.

Loss of revenue, because at this stage, they can charge whatever they want under RBF as a regulator. That is the problem because they are worried about losing revenue, but then let us go back to the argument of providing service at the counter in the bank and providing ATMs.

If you will recall, there was a time when the banks said “okay, we are going to close the branches because we are not making profits but we are going to set up ATMs.” If you look at the two, you will see that the cost of servicing at the counters and opening many branches in different areas are much higher costs than servicing through ATMs, and ATMs also means money making because if you go to the counter, you are not going to pay money for the teller who is serving you. It is the bank who has to pay their salaries and wages, but if you go to the ATMs, yes, you will be paying money, so the cost recovery is faster. So, ATMs save banks a lot money and customer’s immense convenience - no doubt about that.

Now, my argument here is that since banks could not cooperate with each other, we need this Bill to be the mover and the shaker. We had left it in the hands of the banks, what did they do, even as Association of Banks, are they working together on this issue? The answer is no, they not.

We need this Bill to be the mover and shaker so that we can get rid of all these red tapes and open up the market for technology based financial system.

Had banks considered the importance of financial inclusion, convenience, affordability and accessibility, then this Bill was not needed. We still see that BRED Bank is unable to strike interchange arrangement with three big banks. We need non-bank entity, like what I have mention earlier, owned by private sectors to encourage competition and to improve accessibility in rural areas, because they will say “we will not open in rural areas because we

are not making money.” We also need cost effective access to ATM, which plays an important role in technology based financial inclusion.

This is the irony. The irony is that we have got this body which is under UN Pacific Financial Inclusion Programme, PFIP is funded by banks. It is funded by banks and yet 40 percent of population are not included in the mainstream of banks’ easier ways through ATM, but ATMs are not provided.

Now, regarding regulator, which is our RBF regulator, RBF has been authorising the establishment of an ATM and they also have the responsibility to ensure transparency and fair charges for the use of ATMs and the question here is, why are the three banks are charging \$1.50 as interchange rate, while smaller once are charging a dollar?

So, that itself shows that the cost of this interchange is much, much lower. It can be lower than a dollar. Can RBF provide data on the ATM industry, which includes information on the costs and revenue generated by ATMs, and particularly the amount of money they are making on balance enquiry fee which is paid by consumers in Fiji, just to check your account?

This would be an interesting finding, how much money are they making, when consumers are desperate to withdraw their money and they want to be sure that the money is there. If they do not know the money is there, suppose the money is low or are not there, then they are overdrawing the accounts so there will be another fee, where is fairness and justice here?

Benefits of National Switch: Access will be less complicated for new entrants and therefore, it will strengthen competition like BRED Bank can come into mainstream because there are number of products BRED Banks is offering, which is quite reasonable so consumers can switch banks quite easily.

Licensing fee, which will be collected by the Authority as mentioned in this legislation in the long run can assist in the extension of ATMs in remote areas, to assist rural-dwellers and National Switch will definitely provide a platform to standardise and reduce ATM charges which we see is quite exorbitant.

There will be wider choice for consumers in the future to use other banks or mobile phones to do banking. It will open up the platform. Definitely, this will increase financial inclusion and increase access and convenience - that is what we want.

In conclusion, the Council supports the Bill and recommends further strengthening of consumer protection in the Bill itself. So, I will now ask my colleague to make the presentation on the last part.

MS. B. PRASAD.- Mr. Chairman and Honourable Committee Members, while we support the Fiji Interchange Network Payments Bill 2016, there are concerns on few provisions which will be raising this afternoon.

The first, we thought was of concern to the Council, is section 15(1) which basically provides for the Board or the Chief Executive Officer to appoint officers or agents as the Board or the CEO may consider necessary.

Now the concern that we have is the above provision does not actually separate the functions of the Board and the CEO of the Authority. Hence, our recommendation to that would be that the appointment of the staff must solely be the responsibility of the CEO and this will ensure that there is a separation of functions between the Board and the CEO. So, the CEO will be basically in charge of the admin, a bit of the Authority, while the Board can focus on the functions of the Authority itself.

The other section we came across was section 26(6). We thought this provision was quite vague and however we may have understood. We feel that there is no mandatory requirement for the operators or even RBF to provide adequate notice to the participants or any party for that matter, of any changes to the policies, payment system or fee structure.

We believe as such that this provision is detrimental to the consumers because it is prohibiting them to be aware of any policy change that might have an impact on them. We think that any payments system or any change in the payment system would ultimately have an impact on the consumers who will be at the receiving end.

Our recommendation to that provision is, that the provision should be made mandatory for the participants to at least provide adequate notice on any changes to the payment system of fees structure.

MR. CHAIRMAN.- Are you saying that currently, Clause 26(6) does not provide for notice period?

MS. B. PRASAD.- Actually, it is not a mandatory requirement. What it says is that the

MR. CHAIRMAN.- The word should be "shall" there.

MS. B. PRASAD.- Yes, instead of having "or requiring the operator."

MR. CHAIRMAN.- So that the consumers know what they were going to expect?

MS. B. PRASAD.- Yes, very much.

MR. CHAIRMAN.- Thank you, you may continue.

MS. B. PRASAD.- The next section we thought is of concern is Clause 37. This particular clause provides for the use of customers' information. It is well mentioned in the provision, however, just looking at the practicality side, we think that this clause or, at least, the participants must ensure that there is protection of consumer information at all material

times. If it can be possible to include in the Act itself then, perhaps subsequent regulations would help in providing the types of information that can be divulged if it is required.

Clause 42 is also of our concern. This Section is basically allowing the parties of this payment service provider, the payment system operator and any participant to have their disputes referred to arbitration under the Arbitration Act. We believe that resolution of any disputes through the process of arbitration can be complex and time consuming, since the process is very similar to litigation. Arbitration happens to be a *quasi*-judicial process so the participants can be encouraged to use mediatory process at the Fiji Mediation Centre which is newly established, and which will ensure that the disputes of the parties are resolved in a timely manner. This will also ensure that the disputants have a win-win situation and their relationships are maintained. The idea really is to maintain the relationships between the different parties.

MR. CHAIRMAN.- In Clause 42, which of those parties is the consumer? It says; "Any dispute between a permanent service provider or payment system operator and a participant..."

MS. B. PRASAD.- Not really, a consumer I understand, but we thought to expedite the process, it would be viable to actually use the Mediation Centre. There are also provisions in the High Court rules, I understand, which allow parties to undergo mediation even during the trial.

MR. CHAIRMAN.- Are you are suggesting that instead of a compulsory arbitration clause, there should be mediation and then arbitration as a final dispute resolution?

MS. B. PRASAD.- Probably, yes. A centre for mediation as the first step and arbitration as the next step, so we are not really asking to have arbitration wiped away completely, but probably to have a two-tier system.

Clause 43(1); this is where the agreed consumers can lodge a written complaint with the Customers Payment Service provider. We understand these will be the financial institutions, so the concern really is, what would happen in situations where the payment service provider is unable to resolve the dispute? Do we have a second step where the consumers would take their grievances?

As such our recommendation is that, there should be a Financial Ombudsman, who will be independent of the RBF, financial institutions and other payments service providers. This independence of the ombudsman will ensure that consumer disputes are handled fairly and impartially. Having a financial ombudsman in Fiji will undoubtedly make certain that RBF is able to focus on its prudential regulation while the ombudsman's focus will solely be on financial consumer protection.

Clause 43(2)(b); this is where the payment service provider, who will receive a complaint from the consumer, will address the customer's grievance in accordance with the relevant code of conduct. Our concern is that, the redress system may be unfair, where different payment service providers will have different guidelines to address consumer grievances. We

believe there will be no consistency in the application of the code of conduct by the various payment service providers. The focus will really be on the different code of conduct they will have.

The recommendation as such is that, we believe it would be viable to have a standard code of conduct which can be applied by all payment service providers. It must be noted that RBF, at present, being a regulator has not put in place any standard code of conduct for licensed financial institutions which the institutions could adhere to. Apparently, all financial institutions have their own internal policies which differ from other institutions so there is no consistency at all.

Mr. Chairman and Honourable Members, those were some of the provisions we thought were of concern. Thank you.

MR. CHAIRMAN.- Thank you, Ms. Prasad. Do you have any drafting done of any provision that you wish to be inserted in here so that we can discuss that with the Office of the Attorney-General?

MS. B. PRASAD.- We have not actually drafted but if you so wish, we could actually draft the provisions and provide you with that.

MR. CHAIRMAN.- I mean, we could also do it but it will be helpful if you can do your suggestions in a draft form and the Committee will then look into that ...

MS. B. PRASAD.- Very well.

MR. CHAIRMAN.- ... in consultation with the Office of the Attorney General.

MS. B. PRASAD.- Yes, sure.

MR. CHAIRMAN.- Is that the end of the submission of the Consumer Council.

MS. B. PRASAD.- That is.

MR. CHAIRMAN.- Thank you very much.

On behalf of the Committee, I would like to thank the Consumer Council for a very thorough presentation. I believe Honourable Members have some questions to the Council for us to address some key points that we have raised with other parties as well.

We understand the fact and we have seen from your statistics that there are fees and charges that are being levied by banks that do not seem right and that is what the Government hopes to achieve with this Fiji Interchange Network (Payments) Bill to make it a fair playing field. We, in fact, had all the banks here yesterday and the three smaller banks (HFC, BRED and Baroda) felt victimised because it is anti-competitive behaviour. As we have seen from your statistics that the same bank has an arrangement with one bank at \$1.50 and the same bank

with another bank for \$1.00. So, any consumer, if he is a customer, then say, Bank of Baroda, will not want to be with the Bank of Baroda anymore because he is finding a better option with another bank or another player. So, these things are essentially anti-competitive behaviour and the Commerce Commission also highlighted that.

The intra-bank transactions where, for example, I use the same bank card to access the same bank's ATM, the charges are being increased, as I was showing you a while ago, and the RBF as I said which is the regulatory body, should be in control of this thing, otherwise the banks are free to charge anything, it is unregulated.

Then we have the area of concern that the Fiji Interchange Network (Payment) Bill is dealing with which is the interbank transactions where I might use Bank A's card in Bank B's ATM. What the banks' fear is this (this is what the big three players are of the view yesterday) that in remote locations as we have seen, there are very few ATMs in places like Levuka. In fact, Levuka only has one, and Rakiraki, I did not know that Ba only had eight (that is my town) and there are many very other ATMs around the place, but if this thing is opened up and smaller banks are allowed to piggyback on the larger banks, the larger banks will not want to invest in ATMs in smaller areas and which we might see a reduction in operatable ATMs in these towns, because according to the banks it cost about \$72,000 to \$100,000 to set up one bank. So what is the Consumer Council's view on that, that these larger players might decide to pull out their ATMs?

MRS. P. KUMAR.- I do not think it will happen. They are using the 'scare tactics' to push us away from this particular legislation. They always play this game and I think it is a very old game and Government has a choice now. They can use non-bank entities which we talked about. These are the players who can come up and set up ATMs because then they only go to the Authority, not to the banks. It is the Authority that will make the decision as to how this arrangement will take place.

So the banks cannot interfere and also through my presentation, you may have seen that as they are saying that we will not be making enough money, they are going to piggyback on us, but the realities are, they are making money. They are making money, yes, and it would be again interesting for the Committee to find out from the smaller players like Bank of Baroda and Home Finance Corporation Bank (HFC) to provide their data in-confidence, because they also have ATM machines and they have this inter arrangement with the other banks. So if they can give you that information because they are also supportive of this, their data will definitely show something else, and if RBF can also provide you with the data.

MR. CHAIRMAN.- We will definitely write to the RBF and the banks that are willing to provide (smaller banks will be willing to provide) larger banks I know they have their confidentiality agreement, but we have the powers to subpoena them and we will use that with those powers. We want to see why is there a general fear by the larger players of this Bill when it is designed to help the consumers.

You mentioned the independent ATM operators; would you have any idea like who pushed the cash in these machines operated by the independent players?

MRS. P. KUMAR.- For the ATM, independent ATM players will only provide that infrastructure which is used by all the banks. My account will be with the bank because remember this is just the infrastructure through which the money is channelled. So this particular ATM has nothing to do with it, it just providing the infrastructure.

MR. CHAIRMAN.- The question was this.

MRS. P. KUMAR.- So, through this national switch, that is how the payment arrangement will take place, the Authority has to come up with a plan. The fact is that, through my presentation, you have seen, non-bank ATM players are many in the market and it is already used in so many countries.

So it is just a matter of a little bit more work to understand how the mechanics are, and I believe this with the national switch, if we look at the India model, that will encourage more business because infrastructure is this and to use their infrastructure, then the banks can pay. Of course consumers, will pay then the banks can pay them.

MR. CHAIRMAN.- No, my question was a more practical one, like at the moment, when you go to ANZ ATM, if the cash runs out in the machine, ANZ comes in and refills it. If it is an independent player, the six banks, which of the players will put the money in there because the independent player will then file a return at the end of the day, or month and get it from the banks, but if the independent player fills that machine with its own cash?

MRS. P. KUMAR.- I have no idea how that works, a bit more needs to be looked into that.

MR. CHAIRMAN.- Research needs to be done. We also heard earlier that the countries like India, Malawi and Bangladesh, I think they already are on the national switch and they are operating efficiently, France is also on the national switch, and France, we heard from the Manager of BRED Bank that they press zero cents on all transactions. All they do is in their credit cards, they just pay the credit card yearly fee of EUR25 and everything is free. You can actually walk around France cash less and then if they can do it, we are a small market and just an argument in their favour that we do not have enough consumers here to run that, but there are other countries that are doing it.

Also a fear that the banks had that they need to have 7,000 to 8,000 transactions per ATM a month, to make it profitable.

Now, my question to the Banks Association is, perhaps at the moment, you only have a few transactions because no other customers are able to use that. With the national switch, with the reduced rate, all the six banks, the customers might use one ATM and your transaction rate will shoot up. So any comments on that?

MRS. P. KUMAR.- We had a quick discussion with the three smaller banks as part of our preparation for this presentation, although we were given only one day, but we managed to make a call and talked to them. We also appeared in person and had a discussion, from the discussions, what we gauged was that, I just give you an example of Bank of Baroda, in confidence and you can get more information from them that they are making money.

There is no doubt from the ATMs, so while the bigger players are charging \$1.50, making \$40 million profits in a year, if they get up and say "you know what, we are not making

money from ATM” that is really hard to believe. And this is where the data they have to provide will guide the Committee and we feel that, yes we got to be fair to the banks as well because we need them, but it got to be reasonable.

MR. CHAIRMAN.- Baroda is the only bank that provides six transactions per month actually free for their customers, but if they are still making money, then banks with larger customer base which have profits in \$3 to \$40 million more customers if they provide those four or six transactions free, there is no reason why they would not be making money.

MRS. P. KUMAR.- Ploy actually not to have the system in place, because what will happen over the period as I have said, we are moving towards technology-based financial system. It means that consumers will have a choice, not necessarily ATM, we can use everything through a phone, so they are more worried about that, that we can access our accounts and do transfers et cetera. So, they are concerned about that.

MR. CHAIRMAN.- The stats that we obtained from RBF, what they told us was that of all the transactions that happened last year, 22 million transactions of those were intra-bank, it is like you use your own bank's card. It is only three million transactions that were inter-bank, so this Bill will only regulate a very small section of those transactions.

Banks are still open to make profits from their own customers unless the RBF of course brings the charges down. Even if the Bill which we intend to make to an Act soon regulates the area, it only affects a very small number. That number might grow because people are not using it at the moment because of the exorbitant charges. If the law is passed, I think it will be beneficial to the banks as well, because their machines will be used more.

MRS. P. KUMAR.- Yes, that is for sure they will, but as I have said earlier on, the whole idea for them is to just to co-exist, leave the situation as it is so that they can dictate and keep on increasing the fees, keep making the profits and that is their intention, but I think the Government is smarter now with the idea of introducing the national switch because that would also mean bringing in more players and opening up and that would then bring benefits to consumers as we saw in the mobile sector. It is a similar story with mobile sector.

MR. CHAIRMAN.- The Association of Banks are saying that the six months' time to readjust their system is not enough and they are already working on agreements and if they are given perhaps two years, they will be able to come up with the better agreement than what the Government is planning with this Bill.

MRS. P. KUMAR.- If the banks have come up saying that you can gauge, they are now fearing that this Bill will come in and they will dictate things to them. So, why are they now trying and that was my argument earlier on to say “you know what, we can work better.” Do we require this Bill to make them understand as an Association of Banks?

So I start questioning their Association of Bank when they make general statement that “we are the association of bank”, as an association if they could not get all the players together and they only come together when we talk about fees and charges which impacts consumers, then they call us nicely and they only come together when we talk about fees and charges which impacts consumers, then they collude nicely and they make a standard statement. However, when it comes to competition like this, you can see that the other three banks are not supportive.

They know, they are afraid of the idea of having this legislation, having another authority besides RBF. In fact, the banks have been having good times with RBF. As I have said, RBF is only prudential, and so if they go and say, “you know what, this is my cost”, RBF will just stamp that. Today, if you ask RBF to explain the disparity in the ATM fee because they would have submitted the cost of recovery, I wonder what RBF has to say about that.

MR. CHAIRMAN.- That should be a paragraph in our letter as well to the RBF to disclose that to us. Is there any question or comments from Honourable Members?

HON. RATU S. NANOVO.- Thank you, Mr. Chairman. I would like to take this opportunity again to thank the Team for their detailed presentation that they have made to us this morning and coupled with the presentation that was made earlier on in the day by the Commerce Commission. I think that has really answered some of the grey areas that we were concerned with from yesterday.

As Mr. Chairman has highlighted again this morning, there were some concerns raised by the Association of Banks, and one area was the six months period they were requested to comply with, if this Bill is going to come into force. Based on that, they would have already been working on this for the last three years now. They would have already put in place a major portion of what is required of them, and with the assistance again from the Consumer organisation like we heard this morning, with what they know and what the bank has already made, I think the six months period that has already been highlighted in the Bill will be sufficient. What do you think?

MRS. P. KUMAR.- I think it would be sufficient if we are able to appoint the Authority quickly, have the Chief Executive Officer and the Board quickly, then things can roll because we are not creating a system out of the blue. The system exists, many countries are using it, and we do not have to create it from scratch. We can learn from others, we have the World Bank and the IMF to guide us, so why is the six months insufficient?

HON. RATU S. NANOVO.- Just to continue from that, Mr. Chairman, again, the fear for them that now their profit will be slightly reduced or the decision that they normally give towards this will be taken away from them, (I think we did raise with them yesterday that by lowering the fees, because they are the major player in Fiji and with all their machines located Fiji-wide as well as based on the volume) they will still get the majority of profits out of this system. So, there should not be any fear or what do you think Mrs. Kumar?

MRS. P. KUMAR.- There should not be any fear, in fact, they are fearing the change that will take place. In other words, they will no longer be in control as how they have been doing things and any business, they do not like regulations for sure. I think their fear is purely because this legislation will come into place and that will put restrictions and dictate things, so they do not like that. However, from my personal perspective, governments are there for the people, the people must benefit, they must improve their quality of life if they can do some savings, why not; and if it can assist the business to do their business better, then we should have this system.

HON. RATU S. NANOVO.- Mr. Chairman, lastly I think for us, it is our main duty to see that all the banks are given a level playing field which will benefit the customers. If this is the way forward, why not? We should go for it.

HON. B. SINGH.- Through you, Mr. Chairman, I thank the team for the comprehensive presentation today. I would only like to correct your figures, in Korovou there are two ATM machines, one for BSP and the other is the ANZ ATM.

The other issue is that, they are not making profits with their ATMs. It could BSP which has 104 machines, ANZ has 57 and Westpac, the big player, has 51. Why do they still confidently put up their machines if they say they are not making profits?

MRS. P. KUMAR.- I think the reason here is that ANZ and Westpac have been in existence like 100 years. They have their customer base. If you look at the consumers, if my father had an account in that bank, I will have that account, my children will have that account. Do we quickly make that switch? We do not. The reason why we do not make that switch is simply because it is so cumbersome to make a switch. We have payments to be made, if we are going to change to another bank, who is going to give this.....? It is very cumbersome.

Somehow, in Fiji's situation, we tend to rely on bank officers too much. Like my neighbour, we know him, he will be able to give me the best deal. We are living in a false world. In fact, your neighbour will charge you more. However, for BSP to come into the scene and the only reason why they have more ATMs is for the customer base because they have to get more customers. That is the reason. If they already had more customers, why would they spend? Knowing BSP, it is international as well and regional, and they have been in the Region for quite a while, and for them to enter into Fiji where two international banks had a hold on it, the only way they can, sort of, shake the base is by having more ATMs and more exposure to the customers.

So that is why you can see from 2013 to 2014 the profit margin has gone up and regarding the statistics, I can tell you it is extremely difficult to get information. It is not like with a click of a button, you can go to RBF and all that information is there for people to know. In fact it is not, and if you go to the banks' website, you will see that the banks website, like ANZ and Westpac is more international. It is nothing to do with Fiji, although they are existing here.

Again, such information is not available. From the Council's perspective, we saw a lot of grey areas in the financial services and I am personally very concerned because there is so much attention towards products, goods and things that are sold in the market place and shops, that our attention is diverting from the financial sector. If you look at the contribution to the GDP, it is much higher, so what are we doing about that? How are we protecting our consumers? That is missing.

Not too long ago, we had a fraud case at the Council against a Westpac officer and we wanted to sort of explore this issue and make this issue really big in the sense of unregulated financial advisers in the marketplace. So, when we were looking for the code of conduct we

went to RBF and said, "can we have the Code of Conduct?" They do not have it for Westpac, so then we were looking for Westpac Fiji's code of conduct, of course, there is none because there is only the international Westpac code of conduct. Even though they are operating here but nothing in Fiji is controlling them, not even the Regulator or the ethics on their own that Fiji is a different type of marketplace and, therefore, we should have a slightly different code of conduct that fits the kind of people who join the bank or the ethics that we have as a community. It is not reflected.

MR. CHAIRMAN.- I totally agree with the submission that you made a bit earlier, that the banks here require just to bind their customers. Like BRED Bank, for example, I mean, it is not a confidential issue any more but BRED Bank comes up with very good car loans at 7.99 per cent and even less. However, if you want to be there, you actually have to move all your accounts to BRED Bank, your salary has to go to that Bank, in fact, your credit cards as well. ANZ will be holding on to your credit card account, your savings account, everything. The banks require you to move, so if you move from one bank to the other, it is a huge hassle. You have to cancel and transfer all your accounts. It is probably a week's job and you do not have the time. So, what consumers like us do? We just go and buy the more expensive product with ANZ and BRED Bank is not able to open it up because we know that if we move our current account to BRED Bank, they do not have ATMs around. The only convenient way to access money is ANZ or BSP, so whilst our accounts will be at BRED Bank, eight transactions per month we will still be paying more in fees and charges and the interest portion.

So, it is actually a way to bind customers to a certain bank. If the market regulation is opened up, then people have more choices, they can own a credit card from Westpac, they can own a personal account with ANZ, they can have a car loan with BRED bank, so everyone benefits.

MRS. P. KUMAR.- Mr Chairman, bank switching is very, very important for consumers. It is just like we have the freedom to go to MH's, Shop and Save wherever we are buying our product, because we can see the product, we can see the price. However, when it comes financial products we cannot see that, so the bank switching should be made in such a way that it is very convenient to consumer, as well as cost effective, not that when I am going to open another account, I pay all these fees and charges.

For that matter, Australia and New Zealand, they have undergone major financial reforms in these two countries and they have made bank switching just a flick of a finger, that is it. You just inform your bank that you are switching to another bank, they, under the regulations, have to shift that account at no cost, and we have not done that yet.

I think we need to have more changes in the system, and as I have said, unfortunately RBF prudential they are not going to look at consumer, and unless and until we have a separate Consumer Financial Protection mechanism, consumers will never gain because banks will always argue that you are smaller in number, if that argument holds and how come you are making more profit in this country as compared to your own country.

MR. CHAIRMAN.- In fact, in Australia and New Zealand even the mobile phone market is so easy, you can change from one provider to the other without changing the number, and without any cost involved.

I just heard from a friend in Australia that you can change from Optus to Telstra, you still keep your mobile number.

So, people can buy and choose, here a lot of people are not shifting from Vodafone to Digicel for the same reason they do not want to lose a number they have been holding for 15 years, because all the business, all the customers know that number. This is an example that probably can be used in this particular Bill that if it becomes easy to switch banks, it is going to benefit all the consumers.

Are there any further questions or comments from Members?

HON. B. SINGH.- Just to ask if they have any extra data or information on customer based per this location according to the ATM machines, do you have any?

MRS. P. KUMAR.- As I have said it is extremely difficult to get any such information in other countries we can go and get this information, and then we do not have right to information as well. If we had that, then things would have been easier, but we will see how we can facilitate your request, we will try and use our own system to get that information.

MR. CHAIRMAN.- On that, there is a new Bill that is going to be tabled this year, it is called the Freedom of Information Bill, that probably will make a lot of things easier for everyone, where all you need to send is a request and the related party, if they request material they have to disclose it. There are no two ways about it and we will ensure that there will be hefty penalties in there for refusal - unreasonable refusal.

Any final comments from you Mrs. Kumar?

MRS. P. KUMAR.- No. I think I am very happy with the last statement that you have made so we can conclude now - right to Information Bill, that is what we need.

MR. CHAIRMAN.- Thank you very much Consumer Council and the team, Ms. Kumar, Ms. Prasad and the Members for your appearance today. I know this is a difficult time for the country and you have taken time out to be here like all the other groups. As I say the business of government must go on, no matter what the situation is, and we will be sitting here until Friday, tomorrow to hear out submissions again tomorrow.

FNPF will be here tomorrow, you are also welcomed to sit through some of the submissions, your members can hear them out and because we try to strike a balance, we try to hear from the providers, the legislators and the parties, both the parties who are affected by it Consumer Council, and Commerce Commission represents the consumers whereas the banks and other financial institution represents the business, the commerce industry and that is why we make it as open and transparent as possible and we will be continuing with the submissions.

If you have any more submissions later, any more ideas that come to your legal team you can always forward it to the secretariat and I assure you that all will be considered when the Committee is writing its report and we will give a fair evaluation to all the submissions that have been made.

With that I wish, if your family are involved in the disaster zones, we wish them well, we will be continuing with our disaster hour from next week, depending on how we have submissions, and we will definitely be tabling this report in the April session of Parliament to expedite things. Thank you very much.

The Committee Interview adjourned at 1.30 p.m.

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS, HELD IN THE BIG COMMITTEE ROOM (COMMITTEE EAST) ON THURSDAY, 21st APRIL, 2016 AT 10.30 A.M.

Interviewee: **Government Information Technology Centre (ITC)**

In Attendance:

1. Mr. Nisar Ahmed Ali – ITC Government Contractor
2. Ms. Baravilala – Legal Counsel, AG's Office

MR. CHAIRMAN.- Good morning, Honourable Members, members of the Secretariat and our special guest today, Mr. Nisar Ahmed Ali and the legal counsel from the AG's Chambers, thank you for your attendance this morning. As you know, the Justice Law and Human Rights Committee is considering and scrutinising the Fiji Interchange Network (Payments) Bill 2016 which is given to us by Parliament for scrutiny and to table the Report in the coming session of Parliament.

There are some technical aspects in the Bill and we had some questions regarding those, therefore we thought that it would be prudent if we invite the ITC Department to assist us with this Bill.

We would appreciate, Mr. Ali, first of all, if you could just give us a brief introduction of the duties of ITC and whether you have been involved in the drafting of this Bill, or if you have had a chance to go through the Bill to see how it works and how it will work, so that we can brief the Committee and put that in the Report. Thank you.

MR. N. A. ALI.- Mr. Chairman and Honourable Members, good morning to you all. First of all, we thank you for the opportunity for coming and meeting with the Standing Committee.

As a background, ITC is the Government's arm and responsible for all IT matters in terms of having a data centre, looking after all the IT needs for the Government of Fiji and that includes everything in terms of information, communication and technology.

In terms of the Bill, yes, there were some discussions with us in terms of the Bill that is before you and in terms of hosting of the applications, the National Switch and the rest of it were discussed in detail with us and we are aware of that, Mr. Chairman.

MR. CHAIRMAN.- Thank you. Would you be able to explain to us, how this National Switch is supposed to work? We have heard from various other presenters and our understanding is that, the actual network of how ATMs or EFTPOS machines connect, currently is managed by the banks themselves. They are responsible for the networks but once the national network comes into play, all these banks will be linked to that network, as far as the interchange is concerned. Can you elaborate more on that?

MR. N.A. ALI.- At the moment, as it stands, there is a bilateral arrangement between banks, if they want to interchange with each of the parties. So, for example, we have got a new player on the ground like Bred Bank. Bred Bank, at the moment is not on the interchange, but I know Westpac, ANZ and BSP have interchange arrangements, which basically means that if you are a customer of BSP, then your card can be used on ANZ and Westpac as well. So, that is the interchange arrangements between the banks. However, if you look at opening up the market in terms of making service available to everyone, then the National Switch when that

comes in to place, there are two types of transactions if Bank A issues its cards to its customers so that transaction on Bank A will not rout through the switch. If Bank A customer goes and uses his/her card on Bank B, then for Bank B to process that transaction, it will come through the National Switch and then the National Switch will then router the transaction to the issuing bank.

So, basically we will have the network. At the moment, when honest transactions, that is, if Bank A has issued a card to its customer, so that transaction will not be routed, if Bank A customer uses the card on Bank A's ATM or EFTPOS machine. So that is fine, that is not routed, it is only the office transactions that we say, if it is not your transaction, then it is routed through then National Switch.

MR. CHAIRMAN.- What sort of services are we looking at that will be using the National Switch? One is the Interchange Bank A and Bank B transactions. Are we also looking at credit cards, e-ticketing, et cetera?

MR. N.A. ALI.- I think in terms of my understanding and whilst the discussion has been going on, for the moment, it will be just the local issued cards (ATM cards) and not any transactions, but that does not mean that you cannot have those other transactions added on to it. For example, if you were looking at e-ticketing, I believe that there is another Decree which specifically handles e-ticketing, if I am not mistaken, but if e-ticketing was to be coming on and if there is payment that needs to be coming through, they could always connect to the National Switch.

The other question that you have raised is, does it include credit cards? For the moment, the answer I think is that, they will start off with the locally issued proprietary debit cards, but there is a chance that the setup is there to take it further to accept credit cards as well.

MR. CHAIRMAN.- Any questions, Honourable Members in that regards?

HON. M.R. LEAWARE.- Mr. Chairman, I thank you. Now, from the current system that we have, what are the some of the challenges that you face or that you know of in terms of your contact with the banks and your position whilst at ITC? How do you see the current system; is it failing, is it posing a challenge, from your own experience?

MR. N.A. ALI.- If you want my personal view, I think what needs to happen is that, there needs to be a level playing field for all banks and financial institutions. For example, Bred Bank has come in, if a Bred Bank customer wants to withdraw money, he has no choice but to go and find a Bred Bank ATM. So, if I am a Bred Bank customer and there is a Westpac or ANZ ATM here, then I cannot use it, because it is left for a bilateral arrangements that they need to have, but if you were to look at opening up the market, then the objectives and the rest of it is to reduce transaction costs and the convenience that it provides to a card holder. That, instead of riding in a taxi and spending \$5 to find an ATM which is proprietary only to that card, he may just walk for a couple of kilometres and withdraw the money.

So, it is basically making sure that the infrastructure that is available is interchangeable with everyone and then you provide a level playing field.

HON. S.D. KARAVAKI.- Mr. Chairman, thank you, Sir. Right now, as you have rightly stated, what we are trying to achieve in this Bill has been administered through the bilateral agreements between banks; is that right? Why would Bred Bank not follow that same channel and enter in bilateral agreements with other banks, in order to use their ATM

machines? Because as I see it, if you are talking about a level playing field, the other banks have spent a lot of money in setting up their machines wherever they are now, and it would not be a level playing field, if someone just enters, then the Government comes through with this legislation to bring it up to a level playing field, you are talking about. To me, that is not a level playing field. It is not acknowledging what the other banks had done. To me, a level playing field would be any new plan that comes in, you just negotiate with other banks because that is how business is conducted and try to negotiate with other banks and form bilateral agreement to use also their machines rather than to come through by way of a legislation. What do you think?

MR. CHAIRMAN.- On that point, I mean this is the ITC Technical Department it is a policy consideration, I do not think, Mr. Ali....

HON. S.D. KARAVAKI.- Mr. Chairman, why I asked them is with due respect to him, he has mentioned that is a level playing field.

MR. CHAIRMAN.- It is just to answer the question.

HON. S.D. KARAVAKI.- I mean, I am just expressing to you my view.

MR. N.A. ALI.- Again, like I said, if there are any issues in terms of technical aspect of things, I am here to answer those questions but again Honourable Member, the question that you have posed would probably be best answered by the banks themselves, of why they cannot get into that bilateral arrangements.

MR. CHAIRMAN.- Thank you Mr. Ali. The questions for the ITC Department are really focussed on technical issues because that is the part that has been missing so far, we have not had any technical expertise, therefore the banks, the Consumer Council and all the other departments. So the question should really be on technical issues, such as those things we were discussing yesterday.

HON. B. SINGH.- Thank you Mr. Chairman, I will ask Mr. Ali just on the view of the structure, does ITC have that structure and capabilities? I mean I know they are knowledgeable people, they are clever, cannot be tested but if this is to be administrated by the ITC, does ITC have the structure to maintain the continuity of this type of project?

MR. N.A. ALI.- To answer your question in terms of us hosting the National Interchange Network at the ITC Data Centre, the Centre is one of the best data centres. It has got all the accreditations; it is a Tier 2 Data Centre and all the Government applications are sitting in there. You name it; Government BDM, Immigration and FMI Systems are all in there. So we have the state of the data centre.

In terms of pre-positioning ourselves is that, we are also trying to make sure that we get the SMS and QMS certifications for that place as well and then to take another step further would be once you have done these two certifications. We are looking at PCI certifications, which is the payment card industry certification which would not be required on day one but it is just making sure that we are all ready to do whatever we are required to do, in terms of hosting and making sure that there is an up time for the network connectivity on a basis of 99.9 percent. So that is how we are working and while we do not leave anything to chance, we are making sure that we strengthen ourselves in terms of what we have at the data centre.

HON. B. SINGH.- The other question that I would like to pose is that as you are aware, frauds are happening around the world and I would say that we are not immune to any of these fraudsters that are targeting Fiji also. What are some of the security features that are already embedded and do you think hackers would not be able to break any fire walls that ITC already has, and what is the level of security?

And the second would be, if there are some hackers who are able to penetrate, do we allow for indemnity or some issuance to the banks?

MR. N.A ALI.- I think I will take the first half of the question, which I can answer. The other part in terms of indemnity and the rest of it would probably be best answered by those who have come up with the Bill.

We are aware of what is happening. We know what has happened in Fiji as well, in terms of scheming. The application that will reside at the data centre would be the National Switch in terms of application. It meets all the standards in terms of PCI, data encryption services and everything that needs to be met in terms of the National Switch would be met.

What happens in terms of what we have experienced recently, I think last year and this year, there are schemers who have come around and placed devices in the ATMs. The ATMs is not the responsibility of the National Switch, it is the responsibility of each and every bank which owns the ATMs, to ensure that they monitor their ATMs and do probably a physical check as well. So if transactions come in, then of course it would be like a normal transactions but it is for the banks who has got their infrastructure on the ground needs to make sure that it is their responsibility to look at the security aspect of the ATMs on the ground. Hope I have answered your question.

MR. CHAIRMAN.- Thank you. As I understand, the Government ITC, that is your department, that would be the host of this network?

MR. N.A ALI.- Yes, it will be hosted at the data centre.

MR. CHAIRMAN.- The data centre is somewhere in Suva?

MR. N.A ALI.- Yes it is at Berkeley Crescent, it is right at the end, hardly visible.

MR. CHAIRMAN.- That is probably a good thing for our network, to be hardly visible.

MR. N.A ALI.- The data centre is hardly visible, yes. I think, Mr. Chairman, what needs to be understood is that we have got the application sitting at the data centre. There is network that needs to be provided to from the banks switch to the National Switch. So that would be dependency in terms of what communication protocol that each of the banks decide on.

MR CHAIRMAN.- That is the same question that I wanted to ask after that. So the data centre sits at Berkeley Crescent, there will be ATM machines all around the country, looking at the local transactions at the moment. Once we put a card in an ATM, say in Levuka, there will be a connection needed from that ATM, if it is going through the interchange. For example, if it is an ANZ card in a Westpac ATM in Levuka, they will rout through your network and then back?

MR. N.A. ALI.- The way it will happen is that, if you are using bank A card on bank B, so when it goes to bank B, it will see that the pin number does not belong to them, so they will rout it to the switch. So, what happens is that all the transactions when it goes and hits this switch of the bank, then it will determine whether that card was issued by that particular bank or not. If it was not issued by that particular bank, then that transaction will be routed to the National Switch.

So, which means, to answer your question, so if you are in Levuka, the ATM in Levuka would always be connected to a host. Whoever owns that ATM would connect to the switch of that particular bank and when that transaction hits the switch of that particular bank and it sees that the card was not issued by that bank, then they will rout that transaction to the switch.

MR. CHAIRMAN.- To the National Switch and then the National Switch will connect to bank B.

MR. N.A.ALI.- Yes, as it happens at the moment, when the three banks are on interchange.

MR. CHAIRMAN.- So, at the moment, say three major players, they have their own network and they rout each other's transactions, say bank A card to bank C of the three banks, they use their own network. The concept is the same, the network will remain the same but it will be a national network now.

MR. N.A. ALI- Yes.

MR. CHAIRMAN.- Is there any lead time, like how many seconds or minutes would it take?

MR. N.A.ALI.- It probably varies from 15 to 20 seconds, and again it is dependent on network, how clean the network is, it is dependent on MPLs lease line, sometimes when we speak on the phone, there is a bit of noise and things like that, those things affect the transaction – communications.

MR. CHAIRMAN.- The network that the National Switch will use, is it similar to a mobile network? Is it a mobile network that connects to the National Switch?

MR. N.A.ALI.- No, for day one, my understanding is that it is just going to be connectivity to the ATMs, so you need to have secured lines, which means is that if bank A has got its switch and it is accepting a card of bank B, then they will need to have a secure line between all the banks who are members of the Interchange will need to ensure that there is a secure line from their switch to the National Switch.

MR. CHAIRMAN.- It is the responsibility of the individual banks to have a secure line from their host to the National Switch. And you would not know what sort line that is currently

MR. N.A.ALI.- No, there are only couple of things; we have got the MPLS lines. MPLS it the Multi-Protocol Label Switching, which is what we are using at the moment because if you know, TFL has got five almost the country, except for I think (I stand to be corrected) from Rakiraki to Tailevu and ...

MR. CHAIRMAN.- On that line.

MR. N.A. ALI.- ... and then you have got Vodafone, which is also providing Internet Protocol Virtual Private Networks (IPVPN), it again is dependent on the bank for them to decide who they want to use.

MR. CHAIRMAN.- It will be separate secure lines so that there is no clogging or no blocking of traffic.

MR. N.A. ALI.- Absolutely correct, I think whatever is happening now, nothing is going to be changing. It is the same standards that will be using as well in terms of message formats.

MR. CHAIRMAN.- So really, it is not that complicated, we are not technical experts here and we were thinking, probably on a very wide area but it is not that complicated, isn't it? What is being happening now, it is still in process, all that will happen now is that connectivity that host will connect to the National Switch, they will do the transaction, they will take care of the cost, charges and security and then rout it back to bank B.

MR. N.A. ALI.- Issuing them cash.

MR. CHAIRMAN.- Yes, it is more or less the same thing happening through National Switch. Hon. Singh you have something to ask?

HON. B. SINGH.- Thank you Mr. Chairman, just a direct question to Mr Ali. Do you think the banks are on the same par with the ITC networking, like the cabling so that you can rout to that same network and they are in the same platform. What I mean is that the cabling?

MR. N. ALI.- There would not be a cabling as such, the Data Centre has its own standards to comply with. So the termination of the line from the bank switch to the Data Centre, that will terminate there. So, it is basically a lease line, from there we will take over. It is just a connectivity and it does not have to do with cablings or anything like that, if there is anything, that will be taken care off and we will meet all the standards that we are required to meet.

HON. B. SINGH.- Thank you Mr. Chairman, our ITC is still being managed by the Indian ...

MR. N. ALI.- It is a management contract.

MR. CHAIRMAN.- As I understand, I think I have already asked this question but to be clear, connection from Bank A to the national network is the banks responsibility?

MR. N.A. ALI.- Yes.

MR. CHAIRMAN.- Connection from the international network to Bank B is again that particular bank's responsibility?

MR. N.A. ALI.- Whoever the members of the switch would have connectivity to the National Switch.

MR. CHAIRMAN.- It is only the ITC organisations responsibility, only the parallel line...

MR. N.A. ALI.- Having connectivity, ITC would only be responsible in terms of hosting of the hardware and everything that is there. It will not as such be run by ITC, I believe there is a National Switch Authority that would be in place to manage that. So, our responsibility in terms of IT, would only be to ensure that we host the application, we make sure that the up time is there and we meet all the standards in terms of the PCI standards and the rest of it. Of course, all the security features in terms of hosting the applications, the hardware and software. One of the things in terms of the verification of the pins that happens, so those ATM machines and everything would all be at Data Centre, which authenticates the pin numbers.

MR. CHAIRMAN.- The pin number verification will be your responsibility as well?

MR. N.A. ALI.- No, it will be the responsibility of the issuing bank because they know, if you are a customer of bank A then bank A has put in a system to make sure it recognises your pin.

MR. CHAIRMAN.- Any indication on what sort of volume can the ITC handle at one particular time? How many transactions can be routed at one particular instant?

MR. N. ALI.- It is not dependent on ITC as such, it is dependent on the application and what is the volume of transactions coming in, but I think from my experience is that, some of the places maybe 40, 50, 60 transactions per seconds could be handled.

MR. CHAIRMAN.- 40 transactions per second.

MR. N.A. ALI.- 40, 50 transactions per second can be handled.

MR. CHAIRMAN.- Do you have a copy of a Bill before you?

MR. N.A. ALI.- Yes, I have.

MR. CHAIRMAN.- We may take you to the definition section, there are some technical areas there that if you are able to elaborate, or else the council to assist you with and we can take some notes on that.

On page 3 definition under clause 2. If you look at the word “agent means that person who has been contracted by a time and service provider to provide payment service on behalf of the payment service provider in the manner specified in this Act. What sort of agent are we looking at here?

MR. N.A. ALI.- My understanding would be again, I am not a legal person to comment on this in terms of agent, my understanding would be who is the member of the National Switch.

MR. CHAIRMAN.- Ms. Baravilala, would you be able to assist?

MS. BARAVILALA.- My apology Mr. Chairman, I would just like to clarify who is going to do this at the end but my capacity as a member of the ITC Steering Committee, so I am just assisting Mr. Ali in terms of the technical aspects not in my capacity as a legal officer of the Solicitor General’s Office.

MR. CHAIRMAN.- You are in the Steering Committee?

MS. BARAVILALA.- Yes, in the Steering Committee.

MR. CHAIRMAN.- So, you will come back to that later?

MS. BARAVILALA.- Yes.

MR. CHAIRMAN.- The next definition we wanted in a technical sense, how does it work, this is on page 4 - clearing. The actual reading "means the process of transmitting, reconciling on confirming funds of security transfer, instructions to prior to settlement and including netting of instructions of establishment of filed positions." Are you able to elaborate a bit more than that? What clearing would technically mean?

MR. N.A. ALI.- In terms of technical aspects of things, so you would be taking transactions from Bank A and Bank B. At the end of the day because Bank B has used the money from Bank A, so they will net it of at the end of the day saying, "Listen, you owe me money or I owe you money?", so, then the clearing happens. It is the netting off. Of course, the National Switch Authority will decide how the settlement will happen. I think the banks are already doing the netting off at the moment, that is my understanding Mr. Chairman.

MR. CHAIRMAN.- Yesterday we were discussing that, Sir, perhaps for example Bank A owes \$20,000 to Bank B at the end of the day and Bank B owes \$18,000 to Bank A, \$2,000 is the net and they have the respective arrangements of how the \$2,000 will be paid, that is what clearing is? The clearing house will be hosted by the individual banks or by the network?

MR. N.A. ALI.- I think, I cannot answer that it will be the decision of the Authority that will manage the ...

MR. CHAIRMAN.- In the absence of the Authority, probably this Steering Committee for the time being?

MS. BARAVILALA.- Yes, Mr. Chairman, as per the law provides that the Steering Committee will assume that role until the Authority has been appointed.

MR. CHAIRMAN.- So, would you have any idea of what the clearing house would be, like what is actually a clearing house?

MS. BARAVILALA.- Not at this time.

MR. CHAIRMAN.- Because we read further in the Act that this clearing house will not be subject to bankruptcy proceedings and you cannot actually wind it up, it has special powers. If you look at section...

MS. BARAVILALA.- Section 41.

MR. CHAIRMAN.- Yes, not sending any law relating to bankruptcy and solvency or any order of the court made it respect to the administration or the organisation agreement to solvency?

MR. N.A. ALI.- Yes, that is what we are ...

MR. CHAIRMAN.- Is it a physical, tangible body or is a virtual body - the cleaning house?

MR. N.A. ALI.- Like I said, I would not be able to answer that, again it is a matter for the Steering Committee of the National Switch Authority to comment when it gets appointed.

MR. CHAIRMAN.- So, it is like one of those transactional things?

MR. N.A.ALI.- Yes, it is just like doing the transactions and making sure clearing houses could be as it is happening at the moment and it is a bank to bank understanding that you net off and pay - settle them.

MR. CHAIRMAN.- Alright.

MR.N.A.ALI.- Again, it is a decision that would have to be decided.

MR. CHAIRMAN.- Electronic fund transfer on the definition, that is basic, is that the same on what is happening now to the current money transfer.

MR.N.A.ALI.- Yes.

MR. CHAIRMAN.- Electronic money, I think we understand that and it is what that magnetics strip carries, electronic value of the actual currency. Net termination value, what exactly it means? It is probably the \$2000 that I was talking about and that should be the one that we discussed yesterday.

MR. CHAIRMAN.- It is the balance after the clearing is done?

MR. N. A. ALI.- Yes, it is a net value.

MR. CHAIRMAN.- Net value of what Bank A owes to Bank B. The word "termination" probably was a concern there. We are trying to understand what is the technical aspect of that.

MR. N.A.ALI.- So, the example that you gave, Mr Chairman, would stand for this as well.

MR. CHAIRMAN.- That is the value that they will then decide how to deal with it then that will probably follows on netting as well. Netting is what sort of mechanism they used, to get to that balance figure? Netting arrangement, I think we discussed that yesterday. Netting arrangement is a process the used to arrive at the net figure. It entirely depends on the banks; is it not and not in the network?

MR. N.A. ALI.- No, I think, again it is a sort of technical question but in terms of answering your question from the experience I have, once the charges are determined, so if you are withdrawing \$100, it does not mean that you withdraw \$100 but there will be other services cost that would be added on to it and again, it would then be the banks call.

So, if they give you five transactions per month free or something, if it goes beyond that, then the logic is that that you need to charge. Again, it is something that is

MR. CHAIRMAN.- Currently, if we use an ANZ card to withdraw from BSP \$100, the actual receipt will show \$101.50. So, that \$1.50 is the transaction fee that is charged on that amount. Again, as you say, is it the networks responsibility?

MR. N.A. ALI.- No, it is not. It would be the arrangement that is set in place.

MR. CHAIRMAN.- Netting by novation - word from novation be in technical terms.

MR.N. A. ALI.- So, it would be like, the example that you gave is \$101.50 but the customer actually gets \$100 then it is that \$1.50 that you will share.

MR. CHAIRMAN.- That is novation. The participant in this sense probably, Ms. Baravilala, is the bank as the participant or is it the consumer? This was recognise in the rules of a system as eligible to exchange clear and settle through system, now the participants.

MS. BARAVILALA.- Mr. Chairman, it would be the members of the switch which will be the banks or their agents.

MR. CHAIRMAN.- The people work on that are licenced.

MS. BARAVILALA.- Yes.

MR. CHAIRMAN.- Payment card, it is understood that is the plastic card that we use. Payment instrument that is wide enough. Payment service, again is the actual transaction. Some of the areas, we are not very sure of - that is what we thought the actual technical team would be able to tell us and that is why we invited you.

For the Steering Committee, is the settlement rules ready for the Members? The participants were supposed to have their rules within their banks under the Bill.

MS. BARAVILALA.- Is this the definition of the settlement rules?

MR. CHAIRMAN.- Yes, settlement rules.

MR. N.A. ALI.- Mr Chairman, again, I think the settlement rules, they need to determine the fees and charges and the rest of it.

MR. CHAIRMAN.- That is, they are meaning the banks.

MR.N.A. ALI.- Yes, each of the banks and then what the switch authority will determine as what the charges, how much does the issuer gets and how much does the acquirer get.

MR. CHAIRMAN.- Alright, once the body is formed and perhaps in six months, the banks are connected to it, the ITC does not become a major player in terms of transaction, they are only managing the network.

MR.N.A. ALI.- We will be managing the network and the infrastructure pertaining to this authority.

MR. CHAIRMAN.- The running and the administration is separate.

MR. N.A. ALI.- It will not be the responsibility of ITC. I believe the authority that would be created according to the Bill, that is what I read.

MR. CHAIRMAN.- Any questions from the Committee Members on the technical aspects?

HON. B. SINGH.- It can be pushed to the Steering Committee. The worst case scenario, I was just thinking, what about if the bank, for example in Tailevu, pulls out an ATM machine because of the high cost of maintaining it. Does the authority have the power to investigate that? For example, ANZ Bank does not have that much customer in Korovou and they pulled out their machine. Does the authority have the power to investigate some legal.....

MS. BARAVILALA.- Thank you, Honourable Member. I think with regards to the powers of the Authority and the Steering Committee before the Authority is formed, will be just to ensure that the National Switch is implemented.

With regards to the infrastructure that are being placed on the different locations, that would be the banks prerogative and in terms of commercially viable. That is not something that we would be able to deal with and that is up to the individual banks but what the National Switch does allow is if ANZ Bank is out there, then someone who has Bred Bank can then be able to access it as opposed to go and look for their own ATM. That is what it can allow. If they do feel that they are not commercially viable to set up an ATM there, that is the prerogative of the banks.

MR. CHAIRMAN.- The hardware is in the individual banks responsibility. They will set up the hardware, they will manage it. It has nothing to do with the authority or the Network. It is the Inter Bank connectivity - that is their responsibility.

MS. BARAVILALA.- Even basically, just with the Switch, yes.

MR. CHAIRMAN.- Whether the Authority wishes to invest into un-label ATMs that is their prerogative, if no one wants to do that.

MR. N. A. ALI.- Mr Chairman, if I can answer that question. I think with the National Switch that comes in, it could open the market for non-bankers as players as well. Like you have in overseas, where white label ATMs are in the market as well.

So, to answer the Honourable Member's question, there is scope that if banks and financial institutions do not want to invest in areas where they do not make money. It could be, that if someone who becomes a member, again it has to be determined by the Authority that there is scope for white label ATMs to be in the market as well.

MR. CHAIRMAN.- Needless to say that they will be required to be connected to the network.

MR. N. A. ALI.- Of course, anyone who wants to connect needs to become a member first.

MR. CHAIRMAN.- We heard from the Reserve Bank that in the previous year, that was in 2015, we had about \$22 million intra-bank transactions like bank A to bank B card

transactions and about \$3million interbank, that is bank A to bank B or bank A to bank C transactions.

Now, will this transaction data, the ones that are routed through your network or the ITC network, will ITC keep a record of these transactions?

MR. N.A. ALI.- Yes, the whole Report and everything would be provided to the members, because they need to know how many transactions, of days happened, or on the other guys. So, all the MIS information would be provided to the members.

MR. CHAIRMAN.- So, you are capable to keep those reports.

MR. N.A. ALI.- The application would have those features to provide those information because it is necessary.

MR. CHAIRMAN.- Yes, that is what I was wondering, because it is very necessary. If a customer has a complaint, they will go to the individual bank and lodge a complaint and that complaint will then be verified with the network whether the transaction actually happens.

MR. N.A. ALI.- And even if there is any queries to a customers' transaction, he is saying that; 'listen I went to this ATM and I wanted \$100, I did not get \$100 and the rest of it', so we need to ensure that we provide the information to the banks. So, those information as is at the moment would all be provided for any queries that arises if a customer queries a transaction.

MR. CHAIRMAN.- The data capability is there.

MR. N.A. ALI.- Mr. Chairman, I think one of the important issues is, when members are brought in, there needs to be an exchange of information in terms of how the transactions are going to be handled, and those are industries standard like ISO 8583 standards that we meet with all the banks. Any transaction that deals with card based payments complies to this standard.

So, there is a message specification that we agree on and the rest of it, and then we are able to shake hands and talk to each other's systems. So, basically once that message specifications are exchanged, then we get to know what the transaction is, if there is an error code and the rest of it, we would be able to note through that.

MR. CHAIRMAN.- In simple terms, we were told by the Reserve Bank of Fiji and the Banks Association that for the ATMs to deal with each other they need to speak the same electronic language. We do not know what is that called, but

MR. N.A. ALI.- I just answer that question, it is that message format, ISO 8583, that is the message format that we have, so we exchange, there may be some fields data elements within that could probably be different but that is what we need to, when we are discussing the interchange requirements message specifications particularly, then it is important that the technical team gets together, sits down and thrashes it out.

MR. CHAIRMAN.- So, the standard is ISO 8583 and that ensures that....

MR. N.A. ALI.- Yes Sir. That is the message protocol that is being used for any card based transactions.

MR. CHAIRMAN.- It is the language to be the same.

MR. N.A. ALI.- Yes, basically everything is the same and that is how few data elements may be different but that is not a big deal. As you see that the same format is used by the banks for interchanging amongst themselves at the moment.

MR. CHAIRMAN.- So that would mean that if, I am using an example, Bank A customer puts a card in, the cable that connects bank A to the network, that will speak the language, verifies and then network it will have to use the same language to bank B, for that transaction to go through. Now, all the participants who are licensed and they must ensure that it is a working model. It has to work, so they cannot come to the Authority and say; "No we would not change our protocol or our messaging", they will have to abide by it. Is not it?

MR. N.A. ALI.- There are already standards out in the industry, those are the industry standards that most of the banks use. In Fiji, that is what that is happening as well.

MR. CHAIRMAN.- It is not a huge issue. It is not a problem.

MR. N.A. ALI.- Yes. The fact that the interchange is happening amongst the banks is an example that format is being used.

HON. B. SINGH.- Mr. Chairman, my question is just on the unit cost of a transaction routing through the system, what would be the bank's unit cost per transaction?

MR. N.A. ALI.- I cannot answer that, it is more commercial thing, I can only take one question relating to technical aspects, I hope you do not mind, but....

HON. B. SINGH.- The second question would be just....

MR. CHAIRMAN.- The Reserve Bank of Fiji told us that, the unit cost, what their data says is 10 cents per unit or something.

HON. B. SINGH.- But that was their pre-empt thing, it is not a total cost that will be routed to and which ITC will be in a position....

MR. CHAIRMAN.- We will write back to the Reserve Bank.

HON. B. SINGH.- Mr. Chairman, just on the reporting, the reports that you will be generating, will it be a daily trial balance that will be running? And the total number of transaction against the cost or the total cost that will be generated to the banks that will also be in that Report?

MR. N.A. ALI.- Hon. Member, I think again it is more to do with the business side of things (operational) whatever is the requirements by the switch authority, the application would be able to handle that. Once it determines what the cost is going to be, the reports that are generated for the banks that are members and in compliance with RBF rules and the rest of it, those reports would be generated by the application, to ensure that it is compliant with the regulations, not only the switch authority but of the RBF as well.

MR. CHAIRMAN.- This question is perhaps both for the Standing Committee and as far as the technical aspects are concerned. We understand that there are many other countries

using the similar system as large as India, with the population of 2.2 billion and as small as Mauritius which is just over a million. When this Bill was drafted or when it was being discussed with your respective bodies, have you discussed international experience on how it is working in other countries? How they are managing their network?

MR. N.A. ALI.- I think basically in terms of set up and in terms of compliance issues, it meets the requirements and Fiji, being a population of less than a million compared as supposed as to India who has got a billion, so we do not see that as an issue but I think what we would want to ensure is that, at the end of the day, the objective is to make sure that the citizens are able to access to ATMs and the rest of it easily and at a cheap cost.

MR. CHAIRMAN.- In the explanatory notes the Governments' intention of this Act is first to prevent anticompetitive measures amongst payment service providers which you have explained which the small banks will also be able to participate; reduce the cost associated with electronic transactions, that is another objective; reduce dependency on cash, of course if it is up and running fine, and people will be more encouraged to use ATMs as opposed to cash. I mean at the moment, what we are doing, practically I think if you go to the ATM we just withdraw a large amount of money, so that we do not have to come to the ATM all the time and incur that additional charge.

There are countries like France and we had heard from Australia and US counterparts as well, they basically do not carry cash any in their wallets. So, it is safer for them, the risk of getting robbed and losing hard cash is low. The charges are minimum or there is no charges in the electronic cards in France, and that is what the Government is trying to do at some stage in Fiji, basically to reduce the dependency on cash and that is where probably the network comes in. That is the level plain field that we are talking about. If that happens, then our objectives are met or my question regarding the international experience was in countries like say for example, Mauritius which is more compatible, if you are aware. Have some of these aims or objectives being met by National Switch?

MR. N.A. ALI.- I cannot answer that question because I do not know.

MR. CHAIRMAN.- It is not your area.

MS. BARAVILALA.- Sorry Mr. Chairman, I would not be able to answer that, I am not quite sure about Mauritius case.

MR. CHAIRMAN.- Being part of the Steering Committee, would it be possible if, at some stage you can send us some written material on that?

We have some from the Reserve Bank of Fiji, perhaps the people who were behind drafting of this Bill, would have seen how it was working in other countries because it is a very new area.

It is a unique Bill, just 50 paragraphs, 50 sections this is something that we have not had any similar Bills so we need to know the workings of it. The last thing the legislature wants is two months down the line, we find it unworkable and then we have to make some amendments. So that is an area that perhaps the Standing Committee can help us with, if they are able to.

MS BARAVILALA.- My apologise Mr. Chairman, just to clarify, with regards to comparable jurisdictions, and how the National Switch works, so specifically for the legal aspects?

MR. CHAIRMAN.- No, the workings of it. How it works?

MS. BARAVILALA.- How it is able to be managed in those other jurisdictions?

MR. CHAIRMAN.- That will probably show us whether our law is adequate to handle these types of transactions. So far it seems alright to me. It is just because we have not seen it work, we do not know. If you are able to and if your drafters are able to send us some materials. We have some from Reserve Bank of Fiji but perhaps from your prospective because as a steering Committee in the absence of the authority, you will be probably running back and forth from the banks to the network to see that you are speaking the same language, the transactions are going through, there is no delay, there is no security breach. Those are some of the areas that you can probably concentrate on to see how that is been done in other countries.

MS. BARAVILALA.- Noted, Mr. Chairman, we will be providing that brief to the Committee. Thank you.

MR. CHAIRMAN.- Honourable Members any other question in the technical area?

HON. B. SINGH.- Mr. Chairman, it is up to you if you want to answer this. Just looking at the crimes that is happening around and do you think that our legal framework, if there is some penetration of some cybercrimes, through this routing system.

MR. N.A.ALI.- I am sorry, I cannot answer that. It is best answered by the lawyers and the others.

MR. CHAIRMAN.- That is a question for the upper House, the Minister for Justice. Hon.Karavaki, are you satisfied with that? Any more technical questions? Hon. Leawere?

If there is no further questions, thank you very much Mr. Ali and Ms. Baravilala for attending this Committee this morning. If we do have any other technical question, we will email it to both of you on the technical aspects and see if you are able to answer those.

The purpose of the Committee is not to put you in a tight corner. What we are trying to do is to understand the Bill as much as possible before we endorse it and send it back to the Parliament. While reading through it I saw the lead time of six months with the implementation, it will probably take six months for the banks to migrate from their system to the network. So the earlier this Bill is introduced and passed, the better it is otherwise we are losing some valuable time on those, that is why I have heard as many submissions as possible. In fact, we have closed the submissions earlier and we were at a scrutiny stage but then we realised that there were some areas such as technical terms, the workings of the network, that is why we thought to invite you and then hear you. Thank you once again and if we have any further questions we will contact you.

MR. N.A.ALI.- Because it is technical issues, maybe if I answer it by just replying to your emails without having a commentary to that, it may be difficult for you to understand especially if it is technical. So my request would be if you have any issues, you can call upon us and we will try and explain those issues to you.

MR. CHAIRMAN.- That is a good idea because question and answers do not actually show us what we need to know. It is better to have ongoing discussions like what we had this morning, that was in fact valuable for us.

With those I will now adjourn for 20 minutes and you can join us for tea with the Honourable Members and then we will take in from there. Thank you very much.

The Committee Interview adjourned at 11.25 a.m.