

Statement of Preliminary Issues

Payments NZ Limited: Application seeking Authorisation to further develop its open banking framework

12 February 2024

Introduction

1. On 16 January 2024, the Commission received an application (the Application) from Payments NZ Limited (Payments NZ) seeking authorisation under s 58(1), 58(2), 58(6B) and 58(6D) of the Commerce Act 1986 (the Act) to further develop its framework for open banking.
2. ‘Open banking’ is a system which enables consumers to use third parties such as fintechs to send payments from their bank account, and use their banking information (eg, transaction histories) in new ways such as improved budgeting and personal finance tools. The purpose of open banking is to increase competition and innovation in banking, payments and financial data services, leading to better products and services for customers.
3. Open banking is usually facilitated through the use of application programming interfaces (APIs). An API is a set of routines, protocols, and tools for building software applications and specifying how software components should interact.
4. The Commission can authorise an arrangement if it is satisfied that the proposed arrangement will in all the circumstances:
 - 4.1 in relation to an application under s 58(1) to 58(6A) of the Act, be likely to result in a benefit to the public which would outweigh the lessening of competition;¹ or
 - 4.2 in relation to an application under s 58(6B) to 58(8) of the Act, be likely to result in such a benefit to the public that the matter should be permitted.²
5. This statement of preliminary issues sets out the issues we currently consider to be important in deciding whether to grant authorisation.³
6. We invite interested parties to provide comments on the likely benefits and detriments of the Proposed Arrangement. Parties who wish to make a submission should do so by 26 February 2024.

¹ s 61(6) of the Act.

² s 61(8) of the Act.

³ The issues set out in this statement are based on the information available when it was published and may change as our investigation progresses. The issues in this statement are not binding on us.

7. If you would like to make a submission but face difficulties in doing so within the timeframe, please ensure that you register your interest with the Commission at registrar@comcom.govt.nz so that we can work with you to accommodate your needs where possible.

The applicant

8. The role of Payments NZ is to govern and manage payment system rules and standards, and promote interoperable, innovative, safe, open, and efficient payments systems.⁴ Payments NZ is owned by eight banks, including the four major banks – ANZ, ASB, Westpac and BNZ.⁵ Payments NZ has a business unit called the API Centre, which develops, maintains and publishes API standards (developed by the API Centre in partnership with API Providers (i.e. banks) and third parties) and governs their use by registered API Providers and Third Parties. API standards are intended to enable third parties to connect with API Providers in a consistent way to avoid the need to customise third parties' integration with banks.
9. Payments NZ is also seeking authorisation on behalf of other parties to the proposed arrangement, being:
- 9.1 API Providers (i.e. banks, current and future), being financial institutions that issue bank accounts to customers, want to use standardised APIs developed using Payments NZ's API Standards to provide API services to Third Parties, and are registered as an API Provider with Payments NZ.⁶ There are currently seven registered API Providers.⁷
- 9.2 Third Parties (current and future), being entities that want to use APIs developed using Payments NZ's API standards provided by registered API Providers and are registered as a Third Party with Payments NZ. Some API Providers may seek to receive API Services from other API Providers, and may therefore be considered Third Parties in that context. There are currently 17 registered Third Parties.

(API Providers and Third Parties are collectively referred to as Standards Users.)

⁴ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [22].

⁵ ANZ Bank New Zealand Limited (ANZ), ASB Bank Limited (ASB), Bank of New Zealand (BNZ), Citibank, N.A. (Citibank), The Hongkong and Shanghai Banking Corporation Limited (HSBC), Kiwibank Limited (Kiwibank), TSB Bank Limited (TSB), and Westpac New Zealand Limited (Westpac).

⁶ API Services refers to the ability to initiate payments on behalf of customers or access customer data through standardised APIs that comply with API Standards published by the API Centre.

⁷ Being ANZ, BNZ, ASB, Westpac, Kiwibank, TSB, and Heartland Bank.

The scope of the Proposed Arrangement

10. Payments NZ is seeking authorisation for:⁸
 - 10.1 the API Centre and Standards Users to jointly develop a new partnering framework that includes:
 - 10.1.1 an accreditation scheme (including accreditation criteria) for Third Parties;
 - 10.1.2 default standard terms and conditions on which API Providers and Third Parties that meet the accreditation criteria contract for the use of APIs; and
 - 10.2 if the joint development of the accreditation scheme and standard terms and conditions is successful:
 - 10.2.1 the API Centre and Standards Users to offer the accreditation scheme, and apply the accreditation criteria, to Third Parties;
 - 10.2.2 API Providers to agree to contract with accredited Third Parties on the default standard terms and conditions; and
 - 10.2.3 API Providers to apply the default terms and conditions unless both parties agree to use/apply different terms.
11. Payments NZ is seeking authorisation with regards to both current and future API Providers and Third Parties.⁹ Payments NZ is seeking authorisation for an initial period of five years.¹⁰
12. Payments NZ is not seeking authorisation for the specific accreditation criteria or standard terms and conditions of the contracts for use of APIs themselves.¹¹ We note that the specific accreditation criteria and standard terms and conditions will not be known until the end of the joint development phase. While authorisation would be for the parties to implement what has been jointly developed, the accreditation

⁸ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [81].

⁹ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [82]. See also the Payments NZ website for further information regarding criteria for becoming a registered Third Party (<https://www.apicentre.paymentsnz.co.nz/join/api-standards-user/third-party-criteria/>) and registered API Provider (<https://www.apicentre.paymentsnz.co.nz/join/api-standards-user/api-provider-criteria/>).

¹⁰ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [85].

¹¹ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [84(a)].

criteria and standard terms and conditions themselves would remain subject to Part 2 of the Commerce Act in the usual way.

Our framework

13. We undertake a two-stage assessment in any authorisation application under s 58 of the Commerce Act:¹²
 - 13.1 first, establishing whether the Commission has jurisdiction to authorise (the ‘jurisdictional threshold’); and
 - 13.2 second, assessing whether the associated benefits mean that authorisation should be granted (the ‘public benefit test’).

Jurisdictional threshold

14. Payments NZ has applied for authorisation under s 58(1) and 58(2) of the Act. The Commission has jurisdiction to consider an application for authorisation under s 58(1) and 58(2) of the Act where a person wishes to enter into and/or give effect to a contract, arrangement or understanding to which it considers s 27 would, or might apply.¹³
15. The Commission also has jurisdiction under s 58(6B) and 58(6D) of the Act where a person applies for authorisation to enter into and/or give effect to a contract, arrangement or understanding which contains a provision that is, or might be, a cartel provision, under s 58(6B) and 58(6D) of the Act.¹⁴ In order to grant authorisation, the Commission is not required to determine whether a particular provision is in fact a cartel provision, providing there are reasonable grounds for believing that it might be.¹⁵
16. Payments NZ has applied for authorisation under s 58(6B) and s 58(6D) on the basis that the Proposed Arrangement will contain provisions that are or might be cartel provisions.¹⁶ In particular, Payments NZ has noted that:

¹² See our *Authorisation Guidelines* at https://comcom.govt.nz/_data/assets/pdf_file/0025/90934/Section-58-Authorisation-application-for-agreements-June-2023.pdf.

¹³ Section 27(1) of the Act prohibits entering into a contract or arrangement, or arriving at an understanding, containing a provision that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a market. s 27(2) of the Act also prohibits giving effect to a provision of a contract, arrangement, or understanding that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a market.

¹⁴ Section 30A of the Act states that a cartel provision is a provision, contained in a contract, arrangement, understanding, or covenant, that has the purpose, effect, or likely effect of 1 or more of the following in relation to the supply or acquisition of goods or services in New Zealand: price fixing, restricting output, market allocating.

¹⁵ s 61(9) of the Act.

¹⁶ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [113].

- 16.1 The development and application of the accreditation scheme and accreditation criteria could be characterised as involving restricting output or market allocation as:
- 16.1.1 Third Parties that do not qualify for accreditation (because they do not meet the agreed accreditation criteria) will not be automatically entitled to contract with API Providers to access API Services; and
 - 16.1.2 it may involve an arrangement or understanding between competing API Providers not to contract with certain excluded organisations or classes of organisation.
- 16.2 The setting of standard terms and conditions and agreement to use the standard terms and conditions developed can be characterised as:
- 16.2.1 restricting output or market allocation, as it will exclude Third Parties that cannot accept the terms and conditions from automatic access to API Services;
 - 16.2.2 price fixing, as it will likely involve matters that will influence prices, such as:
 - (a) pricing structure and pricing principles; and
 - (b) the allocation of liability between API Providers and Third Parties who partner with them, which will have an effect on pricing that API Providers will individually set for the provision of API Services.
17. We are considering whether the Proposed Arrangement contains, or may contain, a cartel provision and seek submissions on this point.

Public benefit test

18. The Commission can authorise an arrangement under s 58 if it is satisfied that the proposed arrangement will in all the circumstances:
- 18.1 in relation to an application under s 58(1) to 58(6A) of the Act, be likely to result in a benefit to the public which would outweigh the lessening of competition;¹⁷ or
 - 18.2 in relation to an application under s 58(6B) to 58(8) of the Act, be likely to result in such a benefit to the public that the matter should be permitted.¹⁸

¹⁷ Section 61(6) of the Act.

¹⁸ Section 61(8) of the Act.

19. While stated differently, the courts have held that there is no material difference between the two tests.¹⁹
20. Benefits and detriments we include in our assessment must arise from the proposed arrangement for which authorisation is sought.²⁰ To determine whether the benefits and detriments are specific to the proposed arrangement, we assess:
 - 20.1 what is likely to occur in the future with the arrangement (the factual);
 - 20.2 what is likely to occur in the future without the arrangement (the counterfactual); and
21. Once we have identified all likely benefits and detriments, we then assess the value of those benefits and detriments. When making that assessment, matters we may take into account include how the conduct could affect:
 - 21.1 allocative efficiency – whether the conduct would raise or lower prices; and whether it would reduce or improve quality, choice or other elements of value to consumers;
 - 21.2 productive efficiency – whether the conduct could improve or worsen production processes; and
 - 21.3 dynamic efficiency – whether the conduct could assist or hinder innovation in products or processes.
22. The Commission is not limited to considering efficiencies. New Zealand courts have recognised efficiencies are not the only benefits and detriments which are relevant to the Commission’s assessment.²¹ Ultimately, the Commission seeks to assess what benefits accrue to the public in the circumstances of any given case.²²
23. Having assessed the value of benefits and detriments, if we are satisfied that the benefits of the arrangement likely outweigh the detriments, we will grant authorisation. If we are not satisfied, we will not grant authorisation.²³

Market definition

24. When we consider an application for authorisation of a proposed arrangement, we usually assess the competitive effects that the proposed arrangement could have within relevant markets in New Zealand.
25. The term “market” refers to a market in New Zealand for goods or services as well as other goods or services that, as a matter of fact and commercial common sense, are

¹⁹ See *Air New Zealand and Qantas Airways Limited v Commerce Commission* (2004) 11 TCLR 347 (HC) (Air New Zealand) at [33] and also *Godfrey Hirst NZ Ltd v Commerce Commission* (2011) 9 NZBLC 103,396 (HC) (*Godfrey Hirst (No 1)*) at [88]-[90].

²⁰ *Authorisation Guidelines* above n 8 at [43].

²¹ *NZME Ltd & Ors. v Commerce Commission* [2018] NZCA 389 at [81].

²² *Authorisation Guidelines* above n 8 at [42].

²³ *Authorisation Guidelines* above n 8 at [49].

substitutable for them.²⁴ We define markets in the way that we consider best isolates the key competition issues that arise from the proposed arrangement. In many cases, this may not require us to precisely define the boundaries of a market.

26. Payments NZ submits that Standards Users (being API Providers and Third Parties) compete on a number of levels, including in national markets for the provision of:²⁵
- 26.1 a range of banking, insurance and financial planning services to end customers (Banking Services):²⁶
 - 26.1.1 the national retail supply of financial planning services;
 - 26.1.2 the national retail supply of managed funds;
 - 26.1.3 the national supply of domestic house and contents insurance;
 - 26.1.4 the national supply of domestic motor vehicle insurance;
 - 26.1.5 the national supply of commercial motor vehicle insurance;
 - 26.1.6 the national supply of commercial property insurance;
 - 26.1.7 the national supply of commercial liability insurance;
 - 26.1.8 the national retail supply of personal loans;
 - 26.1.9 the national retail supply of corporate banking;
 - 26.1.10 the national retail supply of transaction accounts;
 - 26.1.11 the national retail supply of mortgages;
 - 26.1.12 the national retail supply of SME banking;
 - 26.1.13 the national retail supply of rural banking;
 - 26.1.14 the national retail supply of savings accounts;
 - 26.1.15 the national retail supply of credit cards; and
 - 26.1.16 the national retail supply of merchant acquiring services.

²⁴ Section 3(1A) of the Act.

²⁵ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at pages 30 – 34.

²⁶ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [122].

26.2 According to Payments NZ, competitors in the markets set out in paragraph 26.1 include:

26.2.1 banks;

26.2.2 a range of licensed and/or certified non-bank businesses (eg, non-bank deposit takers, peer-to-peer lenders) that offer some Banking Services;

26.2.3 Third Parties which compete for the provision of some Banking Services (eg, the ability to make payments and/or financial services);

26.3 customer account data and payment initiation services to Third Parties. According to Payments NZ, competitors in this market include:

26.3.1 API Providers (via the provision of API Services);

26.3.2 other parties which provide access to customer account data and/or the ability to initiate certain actions such as sending of payment instructions (eg, screen scrapers);

26.4 open banking services to end customers, such as the supply of account information services to end customers (eg, budgeting services, bill/expense monitoring services) or the supply of payment initiation services to end customers (eg, making payments on behalf of end customers, or making it easier or more flexible for them to make payments from different accounts). According to Payments NZ, competitors in this market include:

26.4.1 Third Parties; and

26.4.2 API Providers who may seek to provide open banking services to customers.

27. We are seeking submissions on how the relevant markets should be defined, including whether there are any other relevant markets that may be affected by and/or inform our assessment of the Proposed Arrangement.

With the Proposed Arrangement

28. As described in paragraph 10 above, Payments NZ submits that if the Commission authorises the Application, Standards Users would engage in the joint development process in order to reach agreement on accreditation criteria for Third Parties and standard terms and conditions on which API Providers and Third Parties contract for the use of APIs. Payments NZ further submits that if agreement is reached in relation to these matters, API Providers and Third Parties (including future API Providers and Third Parties) will implement what has been jointly developed (although authorisation is not being sought for specific accreditation criteria or standard terms and conditions, as set out in paragraph 12).

29. Payments NZ submits in relation to governance of the Proposed Arrangement:²⁷
- 29.1 a working group will be established, with each Standard User eligible to appoint a representative from its organisation;
 - 29.2 recommendations from the working group will require majority support (70% of those in attendance (with a quorum of two-thirds of all members), and at least half of the API Providers and half of the Third Parties represented on the working group, will need to cast votes in favour); and
 - 29.3 if some members do not support a recommendation, the views of those members will be provided alongside the working group's recommendation.
30. We are seeking submissions on what is likely to occur in the future with the Proposed Arrangement, including the likelihood of Standards Users being able to reach agreement on the accreditation criteria and/or standard terms and conditions.

Without the Proposed Arrangement

31. Payments NZ submits that in the absence of the Proposed Arrangement, API Providers and Third Parties would continue to contract with one another using a bilateral partnering model. Payments NZ submits in the Application that there are a number of inefficiencies associated with the bilateral partnering model (which largely stem from a lack of consistency and transparency regarding criteria that Third Parties need to meet in order to partner with API Providers) that serve as a barrier to Standards Users entering into partnering arrangements. Payments NZ submits that these issues with the bilateral model would persist without the Proposed Arrangement.²⁸
32. Payments NZ also submits that other alternatives to bilateral partnering which are currently being used would continue to exist if the application is not authorised:²⁹
- 32.1 bespoke APIs developed by API Providers for use in relation to a specific Third Party would continue to be available. However, Payments NZ notes that this model faces similar issues to the bilateral model in that Third Parties would need to negotiate individually with a number of API Providers, which could involve significant costs;
 - 32.2 other services that work without contracted access to APIs (eg, screen scraping or reverse-engineered bank application access) could be used by Third Parties to achieve similar outcomes to access to API Services. However,

²⁷ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [102].

²⁸ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [130] – [137].

²⁹ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [138] – [150].

Payments NZ notes that the Commission’s “Retail Payment System: Payments Between Bank Accounts” paper described these as being “sub-optimal” network access methods;³⁰ and

- 32.3 electronic credit and direct debit payments would continue to be an alternative to payment initiation.
33. Payments NZ also submits that legislation and/or regulation may be introduced if the application is not authorised which could potentially bring at least some of the benefits associated with the Proposed Arrangement.³¹
- 33.1 In July 2023, the Government released an exposure draft of the Consumer and Product Data Bill (CPD). Under the CPD, data holders within a designated sector (the first of which will be banking) would be required to provide accredited Third Parties with customer account data and payment initiation services.
- 33.2 In July 2023, the Commission’s Retail Payments Systems Team published a paper titled "Retail Payment System: Payments Between Bank Accounts" which, among other things, sought views on a proposal by the Commission to introduce regulation requiring API Providers to disclose information (eg, about terms and conditions for partnering or pricing methodologies), or establish an access regime to the interbank payment network.
34. However, Payments NZ submits that the timeframes for and/or certainty of these legislative and regulatory solutions are unclear at this stage, and that it is also unclear as to whether these legislative and regulatory solutions would achieve all the objectives of the Proposed Arrangement, or meet Payments NZ’s thresholds for performance and availability.
35. We are seeking submissions on what is likely to occur in the future without the Proposed Arrangement, including:
- 35.1 the extent to which alternative options would likely be available to Third Parties seeking access to customer account data and payment initiation services in the absence of the Proposed Arrangement; and
- 35.2 the likely timeframes for any upcoming relevant legislative and/or regulatory solutions to be implemented, and the extent to which the scope of these solutions may overlap with the Proposed Arrangement.
36. The Commission may be required to consider multiple counterfactuals to determine all likely benefits and detriments relevant to its authorisation assessment.

³⁰ See https://comcom.govt.nz/_data/assets/pdf_file/0016/323602/Retail-Payment-System-Payments-Between-Bank-Accounts-Request-for-views-paper-31-July-2023.pdf at [3.14].

³¹ See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [151] – [154].

Preliminary issues

37. At this stage of our investigation, our focus is to identify, assess, and (to the extent practicable) quantify the benefits and detriments that are likely to arise from the Proposed Arrangement.
38. The applicant is seeking authorisation for the API Centre and Standards Users to:
 - 38.1 discuss and reach agreement on accreditation criteria for Third Parties, and standard terms and conditions on which API Providers and Third Parties will contract for the use of APIs;
 - 38.2 give effect to the agreed accreditation criteria (ie, by having an independent body assess accreditation applications from Third Parties); and
 - 38.3 give effect to the agreed standard terms and conditions (ie, by the act of inserting them into contracts for the provision of API Services).
39. For the avoidance of doubt, the Applicant is not seeking authorisation for the specific accreditation criteria and standard terms and conditions, keeping in mind that these do not yet exist.
40. As a consequence of the scope of the application, we are seeking submissions on what benefits and detriments result from:
 - 40.1 matters which fall within the scope of the application; and
 - 40.2 matters which fall outside the scope of the application (eg, benefits/detriments which arise from/are contingent on the specific criteria/terms of the agreement).
41. Payments NZ submits that authorisation should be granted as the benefits resulting from the joint development and subsequent application of the Proposed Arrangement will outweigh the detriments that arise.³²
 - 41.1 Payments NZ submits that the benefits which may result from authorising the Proposed Arrangement include:
 - 41.1.1 mitigating ongoing difficulties with bilateral partnering;
 - 41.1.2 reducing costs for partnering for Standards Users;
 - 41.1.3 facilitating increased uptake of partnering between Standards Users;

³² See Payments NZ Authorisation Application (https://comcom.govt.nz/_data/assets/pdf_file/0026/340586/Payments-NZ-Limited-Authorisation-application-16-January-2024.pdf), at [155] - [178].

- 41.1.4 ensuring Standards Users have equivalent access to the ecosystem to provide services to consumers; and
- 41.1.5 increasing transparency of any issues that Third Parties have in partnering with API Providers.
- 41.2 Payments NZ further submits that even in the event that Standards Users are unable to reach consensus in relation to the Proposed Arrangement, the joint development process would still have contributed to the identification of issues, which would accelerate the maturity of the API ecosystem and contribute to the development of regulatory regimes such as the CPD Bill.
- 41.3 Payments NZ submits that authorisation of the Proposed Arrangement will also bring further benefits to consumers in the form of open banking, which include:
 - 41.3.1 allowing Third Parties to offer a wider variety of open banking services;
 - 41.3.2 encouraging competition in relevant markets (eg, between Third Parties in relation to the provision of open banking services);
 - 41.3.3 making information about banking services and offerings from different banks more accessible to customers; and
 - 41.3.4 improving the ease with which customers can use banking services from multiple banks.
- 41.4 Payments NZ also submits that granting authorisation may generate some detriments such as:
 - 41.4.1 potential to dampen the incentive of API Providers to innovate in relation to the criteria they adopt for partnering and the terms and conditions they utilise; and
 - 41.4.2 giving competing API Providers and Third Parties who participate in the joint development process some degree of insight into their competitors' business strategies.
- 42. We are seeking submissions on the benefits and detriments that will likely arise out of the Proposed Arrangement, noting the points set out in paragraphs 39 and 40. We will test Payments NZ's submissions, including the extent to which the benefits and detriments set out in the Application arise from the Proposed Arrangement, and thus the extent to which we can take them into account as part of our assessment. We are seeking submissions on whether there are other potential benefits and detriments that we should also take into consideration when assessing the Proposed Arrangement.

- 42.1 For example, we will consider if the Proposed Arrangement could have any effects on competition that would create likely benefits or detriments. This could include considering the extent to which the Proposed Arrangement (including any discussions and/or information exchange during the joint negotiation process) could affect competition between Standards Users in the relevant markets, which could include:
- 42.1.1 competition between API Providers for the provision of customer account data and payment initiation services; and
 - 42.1.2 competition between API Providers (and if relevant, Third Parties) for the provision of Banking Services; and
 - 42.1.3 competition between Standards Users for the provision of downstream open banking services.
- 42.2 We will also consider the extent to which some benefits and detriments would likely arise even in the absence of the Proposed Arrangement (eg, as a result of legislative and/or regulatory solutions such as the CPD or regulation by the Commission under the Retail Payments Systems Act), and therefore the extent to which they may be attributable to the Proposed Arrangement.

Next steps in our investigation

43. The Commission is currently scheduled to decide on whether or not to authorise the Proposed Arrangement by **10 July 2024**. However, this date may change to an earlier or later date as our investigation progresses.³³
44. Prior to making our final decision, we will publish a draft determination and seek submissions on the draft. The draft determination sets out our preliminary view on whether we are likely to grant an authorisation, and the reasons for that view.
45. As part of our investigation, we will be identifying and contacting parties that we consider will be able to help us assess the preliminary issues identified above. This may impact our investigation timeline.

Making a submission

46. If you wish to make a submission, please send it to us at registrar@comcom.govt.nz with the reference "Payments NZ Authorisation" in the subject line of your email, or by mail to The Registrar, PO Box 2351, Wellington 6140. Please do so by close of business on 26 February 2024.
47. If you would like to make a submission but face difficulties in doing so within the timeframe, please ensure that you register your interest with the Commission at

³³ The Commission maintains a case register on our website at <https://comcom.govt.nz/case-register> where we update any changes to our deadlines and provide relevant documents.

registrar@comcom.govt.nz so that we can work with you to accommodate your needs where possible.

48. Please clearly identify any confidential information contained in your submission and provide both a confidential and a public version. We will be publishing the public versions of all submissions on the Commission's website.
49. All information we receive is subject to the Official Information Act 1982 (OIA), under which there is a principle of availability. We recognise, however, that there may be good reason to withhold certain information contained in a submission under the OIA, for example in circumstances where disclosure would unreasonably prejudice the supplier or subject of the information. If your submission contains information which you consider there is good reason to withhold under the OIA, please identify specifically the information which you consider should be withheld and explain the reasons for that position (preferably with reference to the criteria for withholding information under the OIA).