

3 March 2025

Commerce Commission

Wellington

By email: paymentsteam@comcom.govt.nz

SUBMISSION on Retail Payment System – Interchange fee regulation for Mastercard and Visa networks – Draft decision and reasons paper

1. Introduction

Thank you for the opportunity to make a submission on the Retail Payment System Interchange fee regulation for Mastercard and Visa networks Draft Decision and Reasons Paper (the Paper). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General comments on the Paper

We agree New Zealanders are paying too much to make and receive payments using credit and debit cards and support further interchange regulation.

However, our primary concern is with the dodgy surcharging practices that are now pervasive throughout New Zealand. Although we are pleased the Commission acknowledges surcharging regulation is required, we urge the Commission to make surcharging regulation one of its top priorities. Consumers are fed up with excessive, hidden and unavoidable

surcharges. The situation has become so bad, we consider it is a national embarrassment and needs to be addressed as a matter of urgency.

Although the Commission has identified some options for addressing surcharging issues in the Paper, we are disappointed a ban (like that in the UK and EU) is not being considered. Regulators in Australia are also currently considering a ban on all card payment surcharges. We therefore urge the Commission to consider this as an option. See our answers below for more information.

Finally, we are concerned about the consumer submission form provided by the Commission entitled "How would our proposed changes impact you as a consumer." We are concerned about both the content of the form, and the fact it isn't easily accessible to consumers. The only place we have found the form is buried in a [press release](#) dated 18 December 2024. The form does not appear on the [Commission's website](#) with the consultation documents.

Also, the form states " We're proposing new rules to reduce the cost of accepting Visa and Mastercard debit and credit card payments. We expect this to significantly reduce the fees NZ businesses pay to receive Mastercard and Visa card payments, and we expect businesses in Aotearoa to pass these savings onto consumers."

In our view, this is likely to create the false impression that consumers will benefit from these savings. However, this is not necessarily the case. Without surcharge regulation, the Commission currently has no way to ensure these savings are passed on to consumers.

Despite these concerns, we intend to share the form and encourage consumers to have their say on surcharges before the deadline.

3. Answers to selected questions in the Paper

Our answers to selected questions are attached below.

Question number	Question
1	<p>Overall, do you agree with the proposed simplified and lowered interchange fee caps? If not, why not? Please provide reasoning and evidence for the proposed caps you disagree with. (Relevant sections: Chapter 2, Table 2.1)</p> <p><i>Yes, we agree with the proposed simplified and lowered interchange fee caps. The fees paid by businesses in Aotearoa for accepting card payments are too high and overly complex and are ultimately being borne by consumers through higher prices or surcharges.</i></p> <p><i>We acknowledge that reducing interchange could result in an increase in other card fees for consumers as well as a possible reduction in security and innovation. We therefore encourage the Commission to closely monitor the impact of any reduction in interchange.</i></p>

Do you agree that it seems likely that some form of surcharging regulation will be needed? What are your views on the possible options we discuss? Do you see other possible options? If so, which? We welcome feedback on possible options to address excessive surcharging. (Relevant sections: Chapter 5)

Yes, we strongly agree that surcharging regulation is required but consider this should be the Commission's priority. Consumer NZ has been calling for surcharge regulation since 2017. At the time, surcharging was only prevalent in certain industries but today, surcharging is now common practice throughout the motu.

Despite the Commission issuing guidelines requiring surcharges are transparent, avoidable and only reflect the cost of acceptance, we have received several hundred complaints indicating that many merchants are not complying with these guidelines. These complaints provide evidence that the Commission's guidelines are not working. Clearly, a lot more needs to be done to fix the surcharging mess that New Zealand is now in.

One of the main reasons for removing the 'no surcharge' rule in 2009 was to allow businesses to send price signals to consumers about the higher costs associated with card use. However, given merchants can offer blended rates and consumers are not receiving clear communication about surcharges, we believe surcharging is no longer achieving its intended outcomes.

We therefore strongly encourage the Commission to consider a ban on surcharges as one of the surcharging regulation options. The EU and UK introduced a ban on surcharges because it was considered the cost of accepting cards was low enough that there was no longer a need to surcharge. In the UK, price transparency for consumers was prioritised over price signalling. We support this reasoning and would like to see full consideration given to this as an option for addressing the problems consumers can face every time they make card payments.

In our view, the benefits of a surcharge ban include:

- ***Transparency: Opaque or hidden surcharges would be done away with allowing consumers to more easily compare prices and shop around.***
- ***Consistency: The same rule would apply to all merchants meaning consumers would have the same surcharge experience wherever they went.***
- ***Simplicity: a ban would be simple and easy for consumers and merchants to understand. It would also mean merchants don't have to think about tracking sales and calculating appropriate surcharges.***
- ***Easier to monitor and enforce: A surcharge ban would be simpler and easier to monitor and enforce (and less problematic) than other surcharge regulation.***
- ***A better consumer experience: Less thought would be required about what card to use, whether to swipe/insert or tap, what the surcharge amount is and whether or not there's a way to avoid a surcharge. Consumers could also leave the house with just their phones in their pockets, knowing they aren't going to have to pay a hefty surcharge for the convenience of not carrying any cards with them.***
- ***Fairer: If interchange is further regulated, the cost to merchants for accepting card payments will soon be lower so can arguably be absorbed more easily by businesses. Also, merchants have some bargaining power when it comes to surcharges, whereas consumers have none. If costs are shifted to merchants, they are more likely to search for better rates, rather than just accept whatever rate they're on and pass that on to consumers.***
- ***Encourages competition: If prices are more transparent this allows consumers to better shop around and encourages competition.***

- ***Consistency with overseas jurisdictions: New Zealand’s rules would be consistent with those in the EU and UK (see below).***

Mastercard and Visa have also called for a ban on surcharges. The Commonwealth Bank of Australia also supports this call in Australia.

Visa, in its submission to the RBA, said “Visa has a longstanding global position of not supporting surcharging given its negative impact on both consumers and merchants. Specifically, surcharging reduces transparency of the costs involved in the provisioning of digital payments. In turn, it limits competition by disincentivizing investment into crucial innovation that ensures digital payments keeps pace with and support the ever-evolving commerce ecosystem to the benefit of merchants and consumers alike and society as a whole.”

We acknowledge there are arguments against introducing a surcharge ban as well. For example, costs may increase slightly for consumers, merchants wouldn’t be able to clearly steer consumers to cheaper payment methods, and a ban could drive a shift towards more expensive credit card payments, and increased card use.

However, on balance, we consider the arguments in favour of a surcharge ban, outweigh the arguments against a ban and strongly urge the Commission to consider this as a matter of priority.

Thank you for the opportunity to provide comment.

ENDS