

25 September 2023

Commerce Commission

44 The Terrace

Wellington 6011

Sent by email to: RetailPaymentSystem@comcom.govt.nz

SUBMISSION on the Commerce Commission's 'Retail Payment System – Payments Between Bank Accounts – Request for views' paper

1. Introduction

Thank you for the opportunity to make a submission on the Commerce Commission's (the Commission) 'Retail Payment system – Payments Between Bank Accounts – Request for views' 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 there is high concentration, and a lack of competitive constraint, in New Zealand's payments landscape. As a result, consumers and merchants in Aotearoa have fewer payment options and pay higher prices compared to those in overseas jurisdictions. At the same time, banks are profiting from the lack of competition and innovation.

Although Payments NZ is working with banks and payment providers to enable an environment where new entrants can create innovative options

to make bank transfers, we consider this is happening far too slowly. In our view, banks have had more than enough time to build APIs to the required standards but have failed to do so.

Therefore, we agree a retail payment network designation is necessary to enable new entrants to provide innovative ways for consumers to make bank transfers. If the government does not intervene, we think there will continue to be insufficient incentive for participants in the retail payment system to develop new and innovative payment methods and increase efficiency. Competition will continue to be stifled and consumers and merchants will ultimately pay the price.

3. Answers to Questions

Our answers to selected questions from the Paper are set out below.

Questions on New Zealand's payments between bank accounts landscape	
1	Do you agree that Eftpos card use is likely to continue to decline? If not, why not? Yes, we agree EFTPOS use is likely to continue to decline.
2	Do you agree with our assessment of the factors contributing to the decline in Eftpos card use? If not, why not? Yes, we agree with the Commission's assessment of the factors contributing to the decline in EFTPOS card use. We are aware that some banks are now issuing customers with debit cards when their EFTPOS cards expire. Customers are told they will be provided with a debit card unless they contact the bank and specifically request an EFTPOS card. This shows there is a clear incentive for banks to issue debit cards, and cease issuing EFTPOS cards. Although some consumers may be happy for their EFTPOS card to be replaced with a debit card, complaints to our office indicate that many consumers don't understand they may be charged surcharges if they don't swipe or insert their debit cards. They're also unlikely to understand banks can earn revenue from their use of debit cards.
3	What do you see as the barriers to innovation and success for Eftpos? We think the main barriers to innovation and success for EFTPOS are the decline in EFTPOS card use and the fact card issuers are incentivised to issue debit cards instead.
4	Do you agree with our view that the decline in Eftpos card use is reducing the competitive pressure on the debit card networks for in-person payments and that this may have a detrimental impact on consumers and merchants over time? If not, why not? Yes, we agree the decline in EFTPOS card use is reducing the competitive pressure on the debit card networks for in-person payments. As a result, consumers have fewer payment options. Merchants are also likely to be incurring higher costs and these costs are passed on to consumers, either in the form of higher prices, or surcharges.

	See our answers to questions 6 and 10 for further comments about surcharges.
5	Do you agree with our view that competitive pressure in the payments between bank accounts landscape could be increased by enabling an environment where payment providers develop innovative options to make bank transfers? If not, why not? Yes, we agree competitive pressure could be increased by creating an environment where payment providers develop innovative options for making bank transfers. Consumers in other jurisdictions, such as the UK and Europe, enjoy a much wider range of payment options than consumers in New Zealand. Although there has been some innovation in New Zealand, this has been very limited compared to overseas jurisdictions and has not provided the same benefits to consumers and merchants.
Questions on the key features of traditional bank transfers	
6	Do you agree that we have captured the existing benefits and problems with the traditional method of initiating bank transfers? If not, what other benefits or problems exist? Yes, we agree. Table 3.1 states “Eftpos payments incur charges for merchants, and Visa and Mastercard debit card payments can incur charges for both consumers and merchants.” However, we have received several complaints this year about merchants charging customers for EFTPOS transactions. Although we haven’t received a lot of complaints about this happening, we are aware it is an issue with some merchants. We have also received over 70 complaints this year about excessive (over 2.5%) credit card or debit card surcharges. We have already provided the Commission with an outline of the complaints we’ve received about excessive surcharges. However, we remain concerned that merchants are charging customers more than the cost to them of accepting the payment. See, for example, our answer to question 10 below.
Questions on the benefits from a more competitive and efficient interbank payment network	
10	Do you agree with our view of the long-term benefits to merchants and consumers from the development of innovative options to make bank transfers? If not, why? Yes, we strongly agree that there are likely to be long term benefits to merchants and consumers from the development of innovative options to make bank transfers. As mentioned above, we are concerned that consumers are currently being charged excessive and unjustified surcharges for card payments. We are also concerned some merchants don’t offer enough payment options to consumers to allow them to avoid payment surcharges. For example, Ticketek is currently selling tickets to a Breakers basketball game in Christchurch on Friday 3 November. If a customer wants to purchase a ticket online, the only payment methods are gift vouchers, credit or debit card and Afterpay. Using a gift voucher is the only way to avoid the 3% surcharge. Payments with credit, debit or Afterpay incur a 3% surcharge. Not only is the surcharge excessive, it is also difficult to avoid.



Your Tickets



Section	Row	Seat
M	B	5
Adult		

DELIVERY METHOD
Mobile Ticket

Order Summary

1 item in basket

SUB-TOTAL	\$24.50
Ticket/Item Price [†]	\$19.00
Handling Fee	\$5.50

A payment processing fee of 3.00% applies to all purchases made by credit card, debit card or Afterpay and is not included in the price. A payment processing fee does not apply for purchases made through Ticketek agents or outlets when using cash, or when redeeming a Ticketek Gift Voucher.

[†] All ticket/item prices include GST, if applicable, and are quoted in NZD

afterpay 4 interest-free fortnightly payments of **\$6.27**
How it works Includes a 3.0% payment processing fee

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Therefore, we consider consumers would greatly benefit from a more competitive and efficient interbank payment network.

¹ Retrieved from <https://premier.ticketek.co.nz/shows/Show.aspx?sh=BRECRN23> at 10.09am on 21 September 2023.

Questions on industry open API standards	
11	Do you consider that the existing industry open API standards are a good starting point to enable innovative options to make bank transfers? Yes, we consider they are a good starting point. However, we note concerns from some in the industry that the standards will need to undergo significant development to enable functionality for many innovative payment solutions.
12	Do you consider the future of industry open API standards will enable innovative options to make bank transfers? Yes, we consider the future of industry open API standards will enable some innovative options to make bank transfers. However, we think innovation may be hampered if the development of standards remains controlled by industry. In our view, consumers will be able to obtain greater benefits if the development of standards is managed independently from industry.
Questions on the key barriers preventing efficient access to the interbank payment network	
14	Do you agree that the key barrier preventing payment providers from gaining efficient access to the interbank payment network is that the banks have not universally built open APIs? If not, why? Yes, we agree this is a key barrier. However, the open APIs must be easily accessible to payment providers on fair and reasonable access terms and conditions, as set out in clause 4.2 of the Paper.
15	Do you agree that the main reason the banks have not universally built open APIs is due to the uncertainty of commercial incentives for them to do so? If not, why? Yes, we agree the main reason the banks have not universally built open APIs is due to the lack of commercial incentives for them to do so.
16	Do you consider that the industry implementation plan creates sufficient certainty that the banks will build the open APIs? And do you consider that the minimum delivery dates are appropriate? If not, why? We agree the industry implementation plan creates some certainty the banks will build the open APIs. However, it may not create sufficient certainty for third parties to create new payment solutions because it doesn't cover the entire banking sector and doesn't guarantee the banks will enter into contracts, on reasonable terms, with those third parties. The proposed timeframes, or the consequences for these not being met, are also likely to be problematic for third parties. Without government intervention, we are concerned there will be further delays in progressing the implementation of APIs in the banking industry when things have already been slow to progress.
17	Aside from the network access issues, are there other issues with the interbank payment network that reduce competition or efficiency? For example, the speed of payments or amount of information attached to payments? Yes, there are other issues with the interbank payment network that reduce competition or efficiency. For example, we consider New Zealand needs to be moving toward real time payments, like other jurisdictions. We understand New Zealand is one of only two OECD countries that doesn't yet have real-time payments. According to Karen Silk, the RBNZ Assistant Governor, "[r]eal time

	payment capability is a prominent example of so-far missed developments that has put New Zealand payments behind on the global stage.”² We agree and would like to see this addressed. In Australia, major banks offer “least cost routing” to merchants. This means that when a customer uses a contactless payment method, the cheapest payment method is automatically selected, thereby saving money for the merchant, and ultimately the consumer. However, this is not available in New Zealand. Instead, payments are automatically routed through the highest-cost payment method and merchants are charged extra for this. Merchants then pass on these costs to consumers in the form of higher prices or payment surcharges. Also, we sometimes receive complaints from consumers about the cryptic information recorded about purchases from some merchants on their bank records. For example, if you purchase something from the Chemist Warehouse on Lambton Quay, this will show on a bank statement as “CWH Lambton Quay”, which isn’t useful to help consumers identify where the purchase was made, and whether it was legitimate. We have also heard that some, but not all, online banking transactions display time stamps. In our view, all transactions should be required to display timestamps to assist consumers to keep track of their spending.
Questions on possible regulatory interventions	
27	Do you consider that a designation of the interbank payment network is a useful first step towards enabling an environment where payment providers can launch innovative new options to make bank transfers in New Zealand? If not, why? Yes, we consider a designation of the interbank payment network is a useful first step towards creating an environment that can support greater innovation for bank transfers.
28	How effective do you consider our regulatory powers would be at addressing the barriers set out in this paper? We consider the Commission’s regulatory powers would be effective at addressing the barriers set out in the Paper.
29	Do you consider that a designation of the interbank payment network, and the subsequent use of our regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand? If not, why? Yes, we agree that a designation of the interbank payment network, and the subsequent use of the Commission’s regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of consumers and merchants in New Zealand.

² <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/publications/informationreleases/2023/letter-to-payments-nz-on-nzs-need-for-real-time-payments-10-july-2023.pdf>