

19 February 2021

Competition & Consumer Policy Team  
Building, Resources and Markets  
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## **Submission on "Regulating to reduce Merchant Service Fees" Issues Paper**

### **1. Introduction**

Thank you for the opportunity to make a submission on the "Regulating to reduce Merchant Service Fees" issues paper. This submission is from Consumer NZ, an independent, non-profit organisation dedicated to advocating on behalf of New Zealand consumers. Consumer NZ has a reputation for being fair, impartial, and providing comprehensive consumer information and advice.

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### **2. General comments**

Consumer NZ supports the introduction of interchange regulation in New Zealand.

High interchange fees allow banks and card schemes to incentivise consumers to use high-cost credit and debit cards. The use of these cards generates revenue for banks and schemes but increases the cost of doing business for merchants and results in higher prices for consumers.

We consider regulation of interchange fees would result in lower costs for merchants and consumers. We would also like to see surcharges regulated to ensure merchants do not charge more than the cost to them of taking the payment.

### **3. Answers to questions**

Our answers to specific questions in the issues paper are set out in the submission template below.

Thank you for the opportunity to make a submission. If you require any further information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jon Duffy', with a stylized, cursive script.

Jon Duffy  
Chief executive

# Submission template

## Regulating to reduce Merchant Service Fees

### Your name and organisation

<b>Name</b>	Aneleise Gawn
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<b>Organisation/Iwi</b>	Consumer NZ

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

The Privacy Act 1993 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

MBIE intends to upload submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE's website because... [Insert text]

### Please check if your submission contains confidential information:

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because...  
[Insert text]

1	Do you have any feedback on our proposed approach to this project?
	<i>No</i>
2	Have we described the retail payments system accurately? Is there any additional information that you would like to provide?
	<i>Yes</i>
3	Please provide information on your understanding of the levels of merchant service fees in New Zealand, any trends in relation to those fees, and how they compare to merchant service fees in overseas jurisdictions.
	<i>See response to question 4.</i>
4	What is your view on charges incurred by cardholders for the use of payment methods?
	<p><i>We consider charges incurred by cardholders in New Zealand to be excessive, particularly when compared with the charges incurred by cardholders overseas.</i></p> <p><i>We are also concerned charges are not always transparent. The lack of transparency makes it difficult for consumers to navigate the payments system and choose the least expensive payment method. It also means all consumers are cross-subsidising more expensive card payment options when merchants increase the price of goods to cover the cost of accepting card payments.</i></p>
5	What impacts do you believe rewards and inducements have on the retail payments system?
	<p><i>Banks and schemes are incentivising consumers to use high-cost credit cards and debit cards by offering rewards and inducements. While high-cost credit and debit cards generate revenue for the banks and schemes, they increase costs for merchants and consumers.</i></p> <p><i>Reward schemes and incentives deliver poor value for many shoppers. Our <a href="#">analysis</a> of credit card reward schemes shows they only benefit big spenders who use their card frequently and are able to pay off the balance in full each month. Low spenders, and those with interest-bearing debt, don't benefit from rewards and are effectively subsidising high spenders.</i></p> <p><i>In our 2019 banking satisfaction survey, we asked participants to rate the value they got from their credit card rewards.<sup>1</sup> Only 31 percent thought they got "very good" value from their rewards. Thirty-four percent thought they got poor value, or were neutral about the value they received.</i></p> <p><i>We also consider rewards and incentives lock consumers into higher cost credit cards, making them reluctant to switch. This reduces competition and allows incumbents to continue charging uncompetitive rates.</i></p>
6	What is your view on charges incurred by merchants for the use (acceptance) of payment methods?

<sup>1</sup> Our data are from a nationally representative survey of 2118 consumers aged 18 and over, carried out in February 2019.

	<i>Charges incurred by merchants are excessive, particularly those incurred by smaller merchants. These charges are inevitably passed on to consumers in the form of increased prices, or surcharges.</i>
7	Please provide your views on barriers to merchants steering consumers to lower cost payment methods and the extent that steering occurs?
	<i>Many retailers don't accept all forms of payment. This means consumers cannot always use their preferred payment method because the cost to the merchant of accepting some card payments is too high. If the costs are reduced, consumers are likely to have a wider variety of payment options. This should ultimately result in lower costs for consumers as well.</i>
8	Please provide your views on the barriers to merchants surcharging and the extent that surcharging occurs?
	<i>Surcharging use is growing, particularly in the travel and entertainment industries.</i>
	<i>We receive regular complaints about excessive surcharges. For example, we recently received a complaint about Jetstar's \$5 credit card fee. Although \$5 may not be considered excessive on a \$200 flight, if booking a \$40 flight, a \$5 fee equates to a 12.5% surcharge.</i>
	<i>We also receive complaints about surcharges that were not disclosed upfront to the consumer and complaints about the inability to avoid surcharges when credit card payment is the only option.</i>
	<i>We consider surcharges need regulating. See question 22 for more information.</i>
9	What is your view of the wealth transfer by merchants passing on merchant service fees in the price of goods and services to all their consumers?
	<i>We agree there is a strongly regressive wealth transfer from users of low-cost payment options to users of high-cost cards. We consider this should be addressed.</i>
10	What barriers do small businesses face to obtaining competitive merchant service fees?
	<i>No comment</i>
11	What information or assistance would assist small business to obtain better deals?
	<i>No comment</i>
12	What cost differences are there for providing merchant services to small businesses compared with larger businesses?
	<i>No comment</i>
13	How much competitive discipline does EFTPOS provide on scheme debit card merchant service fees and are there any barriers to domestic EFTPOS providing more competitive discipline on merchant service fees?
	<i>EFTPOS provides some price competition for scheme debit card merchant service fees. However, we agree there is a risk the downward pressure on contactless debit interchange fees will weaken if EFTPOS continues to lose market share.</i>

14	What impact is product innovation having on merchant service fees?
	<i>No comment</i>
15	Is open banking likely to provide sufficient competitive discipline on scheme debit and credit fees?
	<i>Although open banking may provide some competitive discipline on scheme debit and credit fees in the future, progress on open banking has been slow. We therefore support regulation to lower scheme debit and credit fees.</i>
16	Do you agree that there is a gap in regulatory governance of the retail payments system relating to promoting competition and outcomes that are in the long term benefits of end-users?
	<i>We agree there is a gap in regulatory governance in the retail payment system. We also agree that Payment NZ's ownership by the banks means it is poorly placed to oversee issues related to pricing and business models. We consider this needs to be addressed.</i>
17	Please feel free to provide information on any other issues of concern with the performance of the retail payments system.
	<i>We are concerned about the lack of transparency of the costs involved with buy now pay later schemes.</i>
	<i>Buy now pay later schemes promote their schemes as "free" to consumers when payments are made on time. However, there is a cost to merchants using these services and that cost is passed on to consumers through increased prices. Ultimately, the cost of these schemes is borne by all consumers, not just those who use the service. We consider this issue should be addressed.</i>
18	Do you agree with the objectives for the retail payments system in New Zealand?
	<i>Yes, we agree with the objectives for the retail payment system in NZ.</i>
19	Please provide feedback on the aspects of the proposal for interchange regulation, including any changes that would improve the impact of it, with supporting evidence of any benefits or costs.
	<i>We support the introduction of interchange regulation with hard caps, similar to that in Australia.</i>
	<i>We consider interchange regulation should result in decreased costs for consumers.</i>
20	Please provide feedback on which body or bodies would be best placed to act as the regulator for interchange fee regulation.
	<i>We consider the Commerce Commission would be best placed to act as the regulator for interchange fee regulation given its oversight of related competition and Fair Trading Act matters.</i>
21	Please provide your views on the impacts of the above classes of options, with supporting evidence of the benefits and costs.

*We support a “systems” approach to retail payments regulation and consider supplementary options will be required. However, we would like to see a more in-depth analysis of the options before commenting further.*

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Please provide your views on any other feasible options that should be considered, with supporting evidence of the benefits and costs of these options.

*We consider surcharges should be regulated to ensure merchants can’t charge more than the actual cost of accepting payment. Overseas experience shows regulation of surcharges has been required to provide consumer protection in this area.*

*In Australia, for example, excessive surcharges have been banned since 2017. Under Australian law, if a merchant’s cost of accepting a Visa payment is 1.5 percent, consumers can only be charged 1.5 percent on payments made using a Visa. Further, if businesses want to set a single surcharge across multiple payment methods, the surcharge must be set at the level of the lowest cost method, not the average. We would like to see similar rules in New Zealand given the excessive surcharges that consumers face.*

#### Other Comments

*No further comments.*