

15 March 2023

To interested parties

## **Notification of the next phase of initial monitoring under the Retail Payment System Act 2022**

1. We are beginning the next phase of our initial monitoring of the retail payment system under s 6(a) of the Retail Payment System Act 2022 (the **Act**).
2. The next phase will focus on monitoring the initial direct impacts of interchange fee regulation on merchants.

### **Initial monitoring to date**

3. One of the Commission's functions under the Act is to monitor competition and efficiency in the retail payment system. In our notification of initial monitoring published on 25 October 2022 (**initial notification**), we explained that our monitoring is aimed at enabling us to:<sup>1</sup>
  - 3.1 assess, at a high-level, the current state of competition and efficiency in the retail payment system; and
  - 3.2 monitor the impacts of the initial pricing standard (**IPS**) on competition and efficiency in the retail payment system.
4. In November 2022 we requested information on a voluntary basis from a range of stakeholders under tranche one of our initial monitoring. Those requests were aimed at discovering (among other things) participants' structures, their current market offers, how participants monitor their performance and the contractual relationships between participants.
5. We thank stakeholders that engaged in that process, both in providing the requested information and meeting with the Commission.

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<sup>1</sup> Commerce Commission "Notification of Notification of initial monitoring under the Retail Payment Act 2022" (25 October 2022), available at: <https://comcom.govt.nz/regulated-industries/retail-payment-system?target=documents&root=295801>.

## The next phase of initial monitoring

### *Scope*

6. The next phase of our initial monitoring is focused on understanding the direct impacts of the IPS on merchants.
7. In particular, we are seeking to answer the following questions:
  - 7.1 How much have interchange fees changed due to the IPS?
  - 7.2 To what extent have interchange fee changes flowed through to merchant service fees?
  - 7.3 How were merchants notified of any merchant service fee change?
8. We expect that the full impacts of the IPS on competition and efficiency in the retail payment system will develop over time. We may undertake a broader assessment of those impacts in the future.
9. To be clear, this next phase is not to assess compliance with the obligations under the IPS.

### *Relevant networks and stakeholders*

10. We are primarily focused on the impact of the IPS on participants in the Visa and Mastercard debit and credit networks (the **initial designated networks**) but will also consider to a lesser extent the impact on the EFTPOS network due to it being a low-cost alternative to the initial designated networks.
11. With this in mind, we are seeking to engage with the following stakeholders during this phase of our initial monitoring:
  - 11.1 the schemes – Visa and Mastercard; and
  - 11.2 both bank and non-bank acquirers that participate in the initial designated networks and have a significant portfolio of merchants in New Zealand or are growing their New Zealand portfolio.
12. At this stage we will not be assessing the impact of the IPS on the American Express network, Buy Now Pay Later networks or the interbank transfer network, and therefore will not be seeking information from participants in these networks. These networks could be included in subsequent phases of our monitoring work.

### *Our anticipated process*

13. We will need to gather information to understand the direct initial impacts of the IPS on merchants. Where possible we will use information already provided in tranche one.

14. Prior to seeking any information, we intend to engage directly with the relevant stakeholders on the scope of the information being sought.
15. Following our engagement with relevant stakeholders, we will refine the scope of the information request or notice (as appropriate).

### **Security, use and handling of information**

16. As an organisation we are committed to handling information responsibly. This includes:
  - 16.1 using information only as allowed by law; and
  - 16.2 taking steps to ensure that for private, confidential or commercially sensitive information we provide appropriate protections against disclosure.
17. Keeping confidential information secure is a significant obligation on our staff. Maintaining the security of confidential information is a requirement both under the Commission's policies for staff and the Commission's employment agreements, and these obligations continue after employment ceases.
18. Much of the information we will need to undertake this phase of our initial monitoring will not be in the public domain and may be commercially sensitive. We are conscious of the need to ensure that parties can have confidence in our use and retention of information, including our commitment to respecting as far as possible any privacy confidentiality or commercial sensitivity attaching to the information.
19. We seek to balance parties' rights and expectations as to the confidentiality of information they supply to us against our legal obligations under the Official Information Act 1982 (**OIA**).
20. We may receive requests for information under the OIA which we would be required to release unless good reason existed under the OIA to withhold it. Among other reasons, the OIA allows us to withhold from disclosure any information that would be likely to prejudice your commercial position or disclose a trade secret. In addition, we would normally consult with the party that provided the information before any disclosure is made.

### **Next steps and expected outputs of our assessment of the initial impact of the IPS**

21. We intend to publish a summary analysis of the initial impact of the IPS after the conclusion of this phase. We expect this will be based on information received in this tranche, although it could possibly include some reference to information received under tranche one.
22. We expect this summary will be published in the second quarter of 2023.

23. Information collected in this phase may also inform the scope of our future work programme, including any further monitoring.
24. If you have questions in relation to this letter, please contact John Groot at [retailpaymentsystem@comcom.govt.nz](mailto:retailpaymentsystem@comcom.govt.nz).

Yours sincerely

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