

20 March 2023

Tēnā koutou

Retail payment system – work programme update

1. The purpose of this letter is to update you on the current initiatives in our retail payment system work programme.
2. The Retail Payment System Act 2022 (the Act) came into force on 14 May 2022.¹ Since then, we have built a strong internal foundation from which we are now starting to address some issues in the payment system.
3. Our work programme, including indicative timing, is set out below. This remains subject to change as the programme moves forward, including the need to exercise our statutory powers to address any urgent or important issues that may arise in the system.

Background

4. Payments are the most commonly used financial services in Aotearoa New Zealand. Every time anybody buys something, gets paid, transfers money, or uses an ATM, they're using the retail payment system.

The Retail Payment System Act

5. The purpose of the Act is to promote competition and efficiency in the retail payment system for the long-term benefit of New Zealand merchants and consumers.² In addition to the purpose, which the Commission must exercise its functions and powers for, the following principles must also be considered to the extent they are relevant:
 - 5.1 that merchants and consumers should pay no more than reasonable fees for the supply of payment services; and
 - 5.1 that the retail payment system provides a reasonable degree of transparency.³

¹ Retail Payment System Act 2022 available at www.legislation.govt.nz/act/public/2022/0021/latest/whole.html

² Section 3 of the Act.

³ Section 4 of the Act.

6. The Act includes an additional purpose in relation to merchant surcharging standards which is to ensure that payment surcharges for payment services are no more than the cost to the merchant of the payment services used for accepting retail payments.⁴

Key drivers

7. We are working towards New Zealanders having better ways to pay that are faster and cost less. We will be doing that by:
 - 7.1 promoting competition and efficiency across the retail payment system so that New Zealanders benefit from greater value, innovation, choice, and productivity in their payment options;
 - 7.2 improving transparency by making the right information visible and accessible so that businesses and consumers can make informed choices about the ways they pay and get paid; and
 - 7.3 intervening to reduce harm where competition isn't working and reduce surcharges to no more than cost.

Work to date

8. Some of the foundations that we have laid down are listed below.

Learning about the retail payment system

9. We have been developing our understanding of the retail payment system in New Zealand and the associated issues. This has in part taken the form of meetings with participants of the retail payment system, merchants, and merchant and consumer organisations. We appreciate the time these parties have given us to build our knowledge base. This has given us a good foundation in which to continue to build from.

Building connections with other regulators

10. We have built ties with other domestic regulators that have an interest in the payment space- this has primarily been the Reserve Bank of New Zealand. We are also in contact with payment system regulators in other jurisdictions which helps us stay up to date with international developments.

Merchant research

11. Last year we commissioned a research report on merchant's experiences with the retail payment system and surcharging. This research involved a survey of just over 1,100 business and organisations that accept payments from consumers. We will be publishing this in the coming months (see appropriate merchant surcharging below).

⁴ Section 29 of the Act.

Interchange fee regulation came into force

12. After the interchange fee regulation came into force on 13 November 2022, we observed a lowering of interchange fees for the domestic interchange fee in the Mastercard and Visa debit and credit networks in line with the caps.
13. We released guidance on the interchange fee regulation on 15 December 2022.⁵ This is intended to support participants in meeting their obligations under the initial pricing standard which sets the interchange fee caps.

Initial monitoring of the retail payment system

14. On 25 October 2022 we notified the sector that we had commenced our initial monitoring of the retail payment system.⁶ This work is not just focused on the designated networks but also other main retail payment networks including Eftpos, American Express, buy now pay later networks and the interbank transfer network.
15. To date, this has helped us build on our understanding of the main retail payment networks, the participants and their offerings. We appreciate the effort some participants have gone to in providing information to us in a timely manner.

Focus areas

16. We have identified five focus areas to guide our current work programme as we move forward:⁷
 - 16.1 appropriate / reasonable pricing for merchants;
 - 16.2 a transparent retail payment system;
 - 16.3 an environment for new entrants and payment networks;
 - 16.4 appropriate merchant surcharging; and
 - 16.5 increased competition and efficiency in the retail payment system.

⁵ Retail Payment System Guidance on the initial pricing standard, 15 December 2022 available at <https://comcom.govt.nz/regulated-industries/retail-payment-system>

⁶ Notification of initial monitoring under the Retail Payment System Act 2022, 25 October 2022, available at <https://comcom.govt.nz/regulated-industries/retail-payment-system>

⁷ As stated in paragraph 3, we may also address other specific issues or matters in accordance with the Act when required.

17. **Table 1** maps these focus areas to the purposes and principles of the Act.

Table 1 Focus areas to the purposes and principles of the Act

	Competition and efficiency (s3)	Surcharging (s29)	Reasonable fees (s4(2)(a))	Transparency (s4(2)(b))
Appropriate / reasonable pricing for merchants			✓	✓
A transparent retail payment system	✓			✓
An environment for new entrants and payment networks	✓			
Appropriate merchant surcharging		✓		
Increased competition and efficiency in the current payment options	✓			

18. Over time we will look to communicate these further as our work develops.

Current initiatives

19. Below we outline some of the key initiatives that we have planned for the next six months.

Appropriate / reasonable pricing for merchants

Interchange fee regulation - compliance

20. The draft guidance paper that was consulted on in September 2022 contains a chapter on Information required to assess compliance (Chapter 7).⁸ We expect to publish our expectations on required compliance information and our response to earlier submissions in **April/May 2023**. This will be followed by information requests to participants for assessing compliance.

⁸ Retail Payment System – Guidance on the initial pricing standard – 15 December 2022 available at <https://comcom.govt.nz/regulated-industries/retail-payment-system>

Interchange fee regulation – understanding the initial impact on merchants

21. Although our initial monitoring suggests that the Visa and Mastercard networks are compliant with the initial pricing standard, we still need to assess whether acquirers have passed on lower fees to merchants. We will therefore be requesting information to test this, and plan to publish our findings around the middle of the year.⁹

A transparent retail payment system

22. Our monitoring of the system and publication of information will encourage better performance from participants, identify where competition and efficiency in the system can be improved and inform our work. Merchants and consumers will have access to better information so that they can make more informed decisions about the ways they pay and get paid.
23. We are continuing to monitor competition and efficiency and will begin to publish information to improve the transparency of the retail payment system, including how debit card payments have evolved.

An environment for new entrants and payment networks

24. We are working to understand how new account to account payment options will promote the purposes of the Act. We expect to consult on a paper later in the year.

Appropriate merchant surcharging

25. Merchant surcharging appears to be frequently at levels above the merchant service fees that merchants pay. We consider that there are a number of reasons for this, and we will begin to address them in the coming months by:
 - 25.1 providing information for merchants to assist them with surcharging appropriately – this information will include indications of the rates of merchant service fees we expect merchants to be able to obtain from their acquirer;
 - 25.2 encouraging payment service providers to remove constraints to merchants surcharging appropriately; and
 - 25.3 encouraging some larger merchants that appear to have suboptimal surcharging practices to improve them.
26. This work will involve engagement with, amongst others, merchants and merchant organisations from **April 2023**.

⁹ Further information can be found in Notification of next phase of initial monitoring under the Retail Payment System Act 2022, 15 March 2023 available at <https://comcom.govt.nz/regulated-industries/retail-payment-system>

Increased competition and efficiency in the current payment options

27. We are considering the barriers to competition and efficiency in the retail payment system. Through further engagement with the sector, merchants, and consumers we expect to learn more about this.
28. We encourage sector participants and others to alert us to features or conduct that impacts, or is likely to impact, the competition and efficiency of the retail payment system.
29. We will continue to look at international peer regulators and follow their work where applicable. For example, the UK's Payment Systems Regulator and its work on international interchange fees and scheme fees.¹⁰

Conclusion

30. We trust this letter provides a useful update on our recent work and current initiatives.
31. We look forward to your continued engagement in our work and will keep you updated as this progresses and if plans change in response to developments. Please email retailpaymentsystem@comcom.govt.nz with the subject line 'Subscribe RPS', if you would like to receive email updates on what we publish.
32. Please contact Matthew Lewer (Manager, Retail Payment System Regulation) at retailpaymentsystem@comcom.govt.nz if you have any question in relation to this letter.

Ngā mihi nui

Dr John Small

Commerce Commission Chair

¹⁰ Further information can be found at www.psr.org.uk/publications/annual-reports-and-accounts/payment-systems-regulator-annual-plan-and-budget-2022-23/