Response to the Commerce Commission's consultation on Costs to businesses and consumers of card payments in Aotearoa New Zealand

2 September 2024

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Submitted electronically: RetailPaymentSystem@comcom.govt.nz

Dear Matthew,

Visa welcomes the opportunity to share our perspectives on the Commerce Commission's (Commission) Consultation Paper on "Costs to businesses and consumers of card payments in Aotearoa New Zealand", which seeks views on the scope and level of interchange and pricing and access issues in the retail payment system[1].

In responding to the Consultation Paper, Visa focuses on several topics, including the role of interchange in the digital payments ecosystem, the unintended consequences of regulation, and the relatively nascent stage of the Retail Payment System Act (RPSA) and the Initial Pricing Standard (IPS).

[Redacted]

Visa is committed to New Zealand's economic development and growth, and we look forward to the privilege of continuing to deliver best-in-class digital payments to its consumers and merchants. We would welcome the opportunity to discuss our submission in more detail with the Commission.

Yours sincerely,

[Redacted]
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Country Manager – New Zealand and South Pacific
Visa Worldwide (New Zealand) Limited

[1] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Pages 6-7.

Overview

Visa has welcomed the opportunity to serve both consumers and merchants in New Zealand for several decades, enabling the country's consumers and merchants to buy and sell both locally and internationally. As a network business, we partner closely with a range of clients in New Zealand – from local fintechs to established financial institutions and merchants of all sizes (both online and physical). Our partnership with, and support for, a wide variety of New Zealand clients brings diversity, competition, and ongoing innovation to the nation's digital payments ecosystem. Overall, Visa's goal is to create a robust and vibrant ecosystem that benefits all participants in the payments value chain.

The current digital payments landscape in New Zealand reflects this approach – for example, payment providers[2] are bringing new offerings to market at the same time as Open Banking continues to be developed and the Reserve Bank of New Zealand is engaging closely with industry on its ongoing work on Central Bank Digital Currencies (CBDCs). Combined, these developments point to a future in which there will be expanding choices for New Zealand's consumers and merchants alike – as has been the case in recent years as the digital payments ecosystem has seen a growing number of industry participants.

Below, we share our perspectives on the Commerce Commission's (Commission) Consultation Paper on "Costs to businesses and consumers of card payments in Aotearoa New Zealand" (Consultation Paper) in the spirit of our continued partnership with the Commission and the broader New Zealand Government. In contributing to this consultation, Visa remains committed to the nation's success in continuing to advance digital payments and the broader digital economy.

I. Visa is committed to New Zealand's economic development and growth, and we welcome the opportunity to continue delivering best-in-class digital payments to the nation's consumers and merchants

As the Commission states in the Consultation Paper, New Zealand has been a card economy for many years, thanks in part to the development and use of the domestic debit network, Eftpos.[3] However, as the Commission also observes, consumers in New Zealand are shifting the ways in which they pay, including the use of contactless payments[4] and new products and services that support consumer and merchant interests and behaviours.

[2] Fintech provider Dosh allows users to load a wallet and transfer funds to other Dosh users in near real-time (https://www.dosh.nz/about), Revolut launched in New Zealand in 2023 and provides a money app that enables New Zealanders to hold, send and spend in multiple currencies locally and when travelling (Revolut launches in New Zealand | Revolut New Zealand)

[3] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Section 2.2.1, Page 10.

[4] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Section 2.5, Page 10.

The ongoing development of a secure, efficient, competitive and innovative digital payments ecosystem is essential to the long-term economic and sustainable growth of New Zealand's economy. Enabling New Zealand businesses to thrive is at the heart of Visa's mission. As a network business built on partnerships, we continue to enable new payment flows and expand acceptance, particularly e-commerce, new payment methods such as contactless, and use cases such as transit, ensuring that every New Zealander can pay and be paid in a secure and convenient way. We work with the broader digital payments ecosystem to ensure security is at the forefront of such technology, including tokenisation, AI-powered fraud prevention, biometrics and digital identity solutions.

Visa continuously invests in robust monitoring systems to detect and prevent fraud and ensure clients in New Zealand, and globally, benefit from best-in-class risk and fraud detection solutions. For example, in the 12 months ending March 2023, Visa Advanced Authorisation (VAA), Visa's AI-based real-time payment fraud monitoring solution, helped New Zealand[5] financial institutions to prevent $273[6] million in fraud from disrupting the nation's businesses[7]. Globally, Visa's technology investments of more than $16 billion over the last five years enabled us to prevent $67 billion in fraud-related losses in 2023[8], and to offer seamless and secure transactions across our payment network.

Visa has made these investments against the backdrop of the annual cost of cybercrime worldwide having grown to $13 trillion in 2023. With the cost of global cybercrime expected to reach $22.5 trillion in 2028[9], our investment in technology and people to combat cybercrime is critical to the digital payments ecosystem. In New Zealand, CERT NZ reported $19 million in direct reported financial loss due to cybercrime over the last four quarters[10]. New Zealand's merchants and consumers directly benefit from these investments. By accepting safe, secure and convenient digital payments, merchants can properly service consumers, including international business travellers and tourists, who often make higher sales.

Today, New Zealand is an advanced economy supported by a digital payments infrastructure at the forefront of innovation. That posture has been achieved in large part due to the role Visa plays in supporting New Zealand's issuers, acquirers and fintechs in delivering secure and innovative payments solutions tailored to the demands and preferences of consumers, merchants and the national economy as a whole. For example, that means supporting and enabling secure and frictionless contactless wallet transactions and enabling merchants to expand into e-commerce. It also means ensuring that the New Zealand economy benefits from the most advanced authentication technology to prevent increasingly advanced fraud.

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[5] Visa prevents more than $270 million in fraud from disrupting New Zealand businesses | Visa
[6] all $ figures are in NZD converted from USD at a rate of 1 USD = 1.63020 NZD (February 2024), unless otherwise specified
[7] 12 months ending March 2023, VisaNet (April 2022 – March 2023)
[8] The Future of Payments and Fraud | Visa Navigate
[9] https://www.statista.com/chart/28878/expected-cost-of-cybercrime-until-2027/
[10] https://www.cert.govt.nz/insights-and-research/quarterly-report/quarter-one-cyber-security-insights-2024/

As Visa's response will outline, the Interchange Reimbursement Fee (interchange) is a critical tool in encouraging the digital payments ecosystem to invest in, and adopt, the latest payments technology that supports the future of commerce in New Zealand. Critically, this is a continuous journey and both the needs and demands of consumers and merchants, as well as risk factors, will continue to evolve. Allowing interchange to be set based on specific market conditions, which may change over time, will enable this mechanism to continue to support New Zealand and ensure that decades from now, the country is at the forefront of innovation, just as it is today.

II. The role of interchange in the digital payments ecosystem

Open loop, global networks like Visa connect all participants in the digital payments ecosystem through what is called the 'four-party model' – the four parties being (i) cardholders, (ii) merchants, (iii) issuers, and (iv) acquirers. Issuers have a direct relationship with consumers and acquirers have a direct relationship with merchants – rather than Visa having a direct connection with these groups. We connect all the parties in this 'four party model' to ensure the safe and secure facilitation of digital payments. For instance, Visa works with and supports acquirers to adopt the latest acceptance solutions and technology that enable merchants to offer their customers secure and innovative ways to pay.

Similarly, Visa works with issuers to support them in making innovative payments solutions available to consumers and businesses through products and services that are secure and convenient. Interchange is the mechanism that Visa uses to balance the investment, costs, risks, and needs of digital payments ecosystem participants. Interchange is paid by the acquirer (the merchant's provider) to the issuer (the cardholder's provider). Importantly, interchange is not Visa revenue in New Zealand.

Determining the appropriate levels of interchange is a process that must strike the right balance of incentives between issuers and acquirers, which, in turn, creates value for cardholders and merchants and results in a competitive marketplace. In Visa's experience, allowing interchange to be set based on specific market conditions contributes to achieving balanced economics and benefits all parties who participate in the digital payments ecosystem. Visa's objective is not to set interchange too high or too low, but rather to encourage the use of digital payments and support economic growth. If interchange is too high, merchants will not have an incentive to accept digital payments and adopt alternative secure technologies. If interchange is too low, issuers will not have an incentive to issue payment account credentials and innovate.

Among other things, interchange supports evolving consumer and merchant needs and preferences. Consumers no longer shop the way they did in the early 2000s, in part due to a significant shift from brick-and-mortar retail to e-commerce. Similarly, many consumers today favour making payments using wallets embedded in their phones instead of swiping a card. Fraud has similarly evolved significantly over the last two decades, with the sophistication of tools used by threat actors increasing.

All of these shifts require the digital payments ecosystem to adjust, and new technology and solutions need to be adopted and enabled. Interchange supports issuers' investment in providing best-in-class digital payments, incentivising the adoption of secure and innovative payments solutions that benefit the New Zealand digital payments ecosystem.

The adoption and scaling of token technology[11] is a prime example of how Visa employs interchange to bring global best practice to the New Zealand digital payments ecosystem. By reducing interchange to encourage acquirers to adopt and implement token technology, Visa is able to support timely and consistent roll-out of technology to the benefit of merchants and consumers alike. Tokenisation can reduce the rate of fraud by up to 60 per cent[12] and globally has prevented $1.1 billion[13] in fraud in 2023, with an improvement in authorisation rates by six-basis points[14]. In addition to improving security, token technology sets the foundation for merchants and consumers to benefit from innovations, such as mobile and wearable payments. This technology benefits both merchants and consumers by providing secure, reliable, and innovative payment solutions.

Similarly, interchange is used as a mechanism to encourage the adoption and rollout of new and innovative payment acceptance form factors, such as contactless, which serves as a foundation for wallet and wearable payments and works in concert with tokens to ensure these are secure and seamless. By lowering interchange and introducing preferential interchange for contactless transactions before the introduction of the Initial Pricing Standard (IPS), Visa was able to support the rollout, and use of, contactless technology - now a mainstay of New Zealand commerce. [Redacted] Contactless technology ensures smooth payments at the register, increased operational efficiency for high-traffic merchants and an improved user payment experience for consumers. Critically, once the objective is achieved, interchange can, if required, be restored to its equilibrium position until such a point that it is once more used to roll out other new payments solutions to the benefit of New Zealand's economy.

To expand digital payments to transit, Visa is currently supporting New Zealand Transport Agency Waka Kotahi to roll out digital payments across transit via the creation of a specific industry interchange program. By adjusting and putting in place lower preferential interchange, Visa is able to encourage the adoption and use of secure and seamless digital payments on buses and other forms of transit in New Zealand. It is another example of how interchange is used as a mechanism to encourage scaling and adoption of digital technology.

Beyond supporting issuance, acceptance, and the adoption of new innovative technology and solutions, interchange supports issuers to cover the costs and risks associated with issuing payment cards (whether prepaid, debit, or credit). This includes the administrative costs associated with

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[11] A token is a cryptographic substitute identification number that replaces the card number (Primary Account Number (PAN)) on a consumer's physical or virtual card. The token becomes meaningless to fraudsters if compromised, significantly reducing e-commerce fraud and the possibility of false declines, benefiting both merchants and consumers.

[12] Visanet, Visa processed transactions as of April 2024

[13] Risk Datamart CY2023, Visa Processed global card-not-present (CNP) payment volume for tokenised vs non-tokenised credentials.

[14] Visanet, Visa processed transactions as of April 2024

maintaining a card-issuing business, fraud management, extending credit in the case of credit cards, and managing the risks of bad debt costs. This provides the financial motivation for issuers to innovate and continue to grow the digital payments ecosystem. Best-in-class authentication and fraud detection technology is required in order to protect merchants and consumers from large-scale and sophisticated fraud attacks, originating both domestically and from overseas.

These are all examples of the critical role interchange plays as a mechanism to support the New Zealand economy in providing best-in-class digital payments tailored to the current and future needs and preferences of consumers and merchants alike. The future of commerce in New Zealand will require new and more advanced payment solutions than those that exist today and interchange is critical in supporting that evolution in response to continuous change. Further restrictions on interchange will negatively impact the evolution of digital payments in New Zealand and the broader economy it supports.

III. Visa's perspectives on the Commission's interchange-related proposals in the Consultation Paper

Visa has had the opportunity to review the Commission's Consultation Paper. We understand that the Commission is seeking feedback on the Consultation Paper in order to determine whether to review the current interchange fee regulation. We explore each of these matters below, including in response to specific questions in the Commission's questionnaire template.

We wish to reflect our understanding of the Commission's proposals with respect to interchange. **It is our understanding that the Commission is considering the following, either as independent actions or in combination**:

1. Introducing further reductions to currently regulated interchange caps[15].
2. Expanding the scope of existing interchange regulation to potentially include additional domestic products such as commercial credit and prepaid products, which are excluded from existing regulation[16].
3. Evaluating whether to expand the scope of existing interchange regulation to potentially include foreign-issued cards, which are excluded from existing regulation[17].

[15] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Sections 4.31 and 4.32, Page 31.
[16] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Section 4.29, Page 31.
[17] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Sections 4.29 and 4.3, Page 31.

4. A provision to limit net compensation to understand whether issuers are receiving compensation at the potential expense of acquirers, merchants, and consumers ("anti-avoidance measures")[18].
5. The role of surcharging in the digital payments ecosystem.

For the reasons detailed in this response, Visa urges the Commission not to consider implementing these measures. As an overarching point, we note that the current domestic interchange caps set forth in the Retail Payment System Act (RPSA) took effect in November 2022 and have thus only been in effect for less than two years. In August 2023, the Commission published a report titled, "Observations on the impact of interchange fee regulation", to "set out [its] preliminary assessment of the impact of interchange fee regulation. Specifically, how much merchants have benefited from the interchange fee caps imposed by the initial pricing standard through lower merchant service fees."[19] In the August 2023 report, the Commission further notes its expectation that "some of the cost savings from lower merchant service fees will be passed on to consumers"[20] and an initial finding that businesses are not receiving the full benefit of interchange fee regulation and that additional work is required to better understand "what has happened to the estimated $25 million difference between the savings for acquirers and savings for merchants."[21]

We note that the Commission began its monitoring and data collection on the initial direct impacts of interchange regulation on merchants in March 2023, only five months after the new rates took effect. Visa submits that the digital payments ecosystem needs appropriate time to adapt to newly-reduced interchange and for the impacts of those rates on ecosystem participants – including merchants, financial institutions, and consumers – to become clear.

Visa recommends that the Commission not consider further reducing interchange or expanding the scope of interchange regulation until the digital payments ecosystem has had time to adjust to these rates and the Commission can determine whether interchange reductions have achieved the Commission's stated policy objectives, including pass-through of reduced costs from acquirers to merchants.

We commend New Zealand for its steadfast commitment to competition and innovation. Among other things, New Zealand is seeking the best approach to implement a Consumer Data Right, additional

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[18] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Sections 4.64, Page 40.
[19] Commerce Commission (2023), Observations on the Impact of Interchange Fee Regulation, available at comcom.govt.nz/_data/assets/pdf_file/0019/324541/Retail-Payment-System-Observations-on-the-impact-of-interchange-fee-regulation-8-August-2023.pdf, Section 1.1, Page 8.
[20] Commerce Commission (2023), Observations on the Impact of Interchange Fee Regulation, available at comcom.govt.nz/_data/assets/pdf_file/0019/324541/Retail-Payment-System-Observations-on-the-impact-of-interchange-fee-regulation-8-August-2023.pdf, Section X6, Page 5.
[21] Commerce Commission (2023), Observations on the Impact of Interchange Fee Regulation, available at comcom.govt.nz/_data/assets/pdf_file/0019/324541/Retail-Payment-System-Observations-on-the-impact-of-interchange-fee-regulation-8-August-2023.pdf, Section X10, Page 6.

regulatory requirements for Buy Now Pay Later (BNPL) products, the issuance of 'digital cash' like a CBDC and increased bank participation in its interbank payment system. New Zealand is a highly sophisticated and complex digital payment ecosystem and ecosystem participants need time to adjust to these initiatives, incorporate new rates and requirements, and assess how the market responds. As Visa's response outlines, ensuring that the New Zealand digital payments ecosystem continues to benefit from the interchange mechanism encourages security, technology advancement, innovation and payments growth. Further compressing interchange in this environment risks stifling innovation and the robust competitive market it fosters.

The Commission references markets where interchange varies compared to New Zealand, in particular Australia, the United Kingdom (UK) and the European Economic Area (EEA), where regulation has resulted in some rates being lower than those observed in New Zealand. **We note that each jurisdiction is different and has unique characteristics so a one-size fits all regulation, based on another jurisdiction or digital payments ecosystem, would not be appropriate. It is critical to consider the unique market conditions and governmental policies in different jurisdictions when developing and implementing regulations. We submit that such regulation, and proposals like those considered in this Consultation Paper, would limit the digital payments ecosystem's ability to continue to advance the future of payments in New Zealand and would risk slowing innovation at a time when the ecosystem is evolving and changing more than ever.**

Like the Commission, Visa is committed to the growth and development of digital payments in New Zealand. As stated in Visa's cover letter accompanying this submission, we would welcome the opportunity to engage the Commission on these matters, with the objective of ensuring that the country's digital payments ecosystem remains secure, vibrant and innovative.

We have provided below responses to the Commission's specific questions, using the Consultation Paper's template form.

Visa's response to the Consultation questions

QT. No.	Target Audience	Question
3	All stakeholders	Is token portability an issue in New Zealand? If yes, what is stopping the implementation of the Reserve Bank of Australia's expectations here?
	Visa Response	Visa does not see token portability as an issue for the New Zealand market. Token portability refers to the ability for merchants to move from one gateway or token provider to the other. Any Token Requestor ID holder (merchant or e-commerce facilitator for whom a token has been issued) can choose to migrate to another gateway. The physical migration of credentials from one provider to the other is between the merchant and their gateway and is not dissimilar to a merchant migrating a set of Primary Account

		Numbers (PANs) from one gateway to the other. Merchants typically include migration as part of termination clauses in their agreements with payment gateways and token service providers. In the Australian context, as far as Visa is aware, Eftpos currently does not support tokenisation. In the Reserve Bank of Australia's (RBA) expectations, it has identified this as a key prerequisite for more widespread adoption of network tokenisation, saying that the Eftpos e-commerce tokenisation service should be expanded to support token portability (as well as token synchronisation).[22]
4	All stakeholders	We welcome further evidence of any other issues within the New Zealand retail payment system
	Visa Response	**Level playing field** It is essential to ensure a level playing field among all participants, including traditional participants (in New Zealand's case, Eftpos, BNPL schemes and the international schemes) and newer entrants, both to balance the risks in the digital payments ecosystem as well as to maximise competition and innovation. The Commission has stated that one of the changes in the way consumers pay due to further interchange fee regulation can be a shift of credit customers to American Express[23]. The Commission has also noted the recent growth of American Express in the New Zealand market and has stated that American Express cards are more expensive for merchants to accept[24]. Despite this, the Commission is not considering any recommendation to designate the American Express network at this stage but will continue to monitor the number of cards issued and transactions processed along with the Merchant Service Fees (MSF) charged[25]. This decision appears to overlook the potential for an uneven playing field, where certain payment networks are

[22] Reserve Bank of Australia (2024), Expectations for Tokenisation of Payment Cards and Storage of PANs - May 2024 | RBA

[23] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 43.

[24] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 15.

[25] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, page 44.

subject to regulations while others remain unregulated. This is also counterintuitive to the Commission's intent of lowering costs to merchants.

With regard to the Commission's decision, Visa would draw the Commission's attention to the 2015-16 RBA review of issues pertaining to the competitive neutrality of card payments regulation; that is, the implications of regulation applying to some card schemes but not to others. There was a particular focus on the emergence of American Express 'companion card' arrangements subsequent to the RBA's regulation of interchange in four-party card schemes (e.g., Visa and MasterCard) in the early 2000s.

In a 2016 speech, the RBA noted that in the decade since it had first considered the case for regulating interchange-like payments made by American Express to its partner banks under companion card arrangements, the "issuance of companion cards has grown faster than that for the four-party schemes"[26]. In addition, the combined share of credit and charge card transactions accounted for by American Express (and Diners Club) noticeably increased[27]. This led the RBA to conclude in May 2016 that it should regulate interchange-like payments for companion cards so that they would be subject to the same cap as the four-party schemes[28].

Surcharging

The Commission states in the Consultation Paper that regulated interchange rates "should also reduce the surcharges faced by New Zealand consumers"[29] as well as the number of merchants surcharging. The Commission also notes that merchant surcharging currently "can be excessive."[30]

Consumer protection is a core tenet of Visa's position against surcharging. Consumers should be able to pay the same price for an identical product or service irrespective of the personal choices they make about their choice of payment. This ensures that consumers are protected throughout the decision-making process of making a purchase and, importantly, at the point of sale (PoS), whether through Card Present (CP) or Card-Not-Present (CNP)

[26] The Card Payments Review | Speeches | RBA
[27] Competitive Neutrality and Net Payments to Issuers | Review of Card Payments Regulation – May 2016 | Conclusions Paper | Submissions | RBA
[28] Review of Card Payments Regulation: Conclusions | Media Releases | RBA
[29] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 4.
[30] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 17.

channels. Consumers should have the meaningful ability to choose their preferred payment method based on merit and convenience and should not be penalised for doing so.

Surcharging creates an unlevel playing field and stifles competition and innovation in the digital payments ecosystem. Both issuers and acquirers invest heavily in ensuring they offer highly secure, competitive, and innovative payments propositions from which merchants and consumers benefit. They offer those solutions at a particular cost and compete on price. Surcharging reduces competition which, in turn, negatively impacts innovation to the detriment of consumers and merchants alike.

To the extent that surcharging exists to compensate for MSF that has not been reduced in line with reductions in interchange as a result of IPS, as outlined in this response, Visa's position is that IPS must include all schemes in order to have a meaningful impact on MSF. Acquirers in New Zealand typically blend MSF and will price to the higher point of interchange or interchange equivalent. The fact that American Express and other networks are not included in IPS means MSF is likely not reducing as much or as quickly as it otherwise would - as acquirers would likely be loss making on those transactions that are on schemes that sit outside of the IPS.

In addition to the negative impact surcharging has on the digital payments ecosystem as a whole, the practice of surcharging does not benefit merchants. In jurisdictions that allow surcharging, some merchants inevitably advertise a lower price that does not include the surcharge amount to attract consumers. In doing this, merchants that opt to disclose the amount of the surcharge as part of the advertised price are inevitably placed at a competitive disadvantage because they advertised a higher – though more accurate – price than their competitor(s).

The potential for inconsistency from merchant to merchant in disclosing surcharges results in a competitive pressure that incentivises merchants to impose surcharges, but to limit the disclosure of those surcharges. This potentially leads to merchants unknowingly advertising information that is inaccurate and/or misleading, and consumers feeling duped as a result of relying on such information in making decisions. The absence of surcharging, therefore, ensures that one merchant's practice does not negatively impact another merchant's competitiveness and that there is a level playing field for merchants competing for the same consumer base.

Regulators globally typically discourage surcharging, while others have been progressively reining in surcharging. In 2013, the European Commission (EC) prohibited surcharges that were in excess of the costs associated with accepting payment cards. In enacting a ban on excessive surcharging, the EC concluded that "in those countries where surcharging is allowed, surcharges are sometimes exploited by retailers who applied excessive surcharges to increase their revenues."[31] In limiting the amount of the surcharges, the EC concluded that it was difficult to establish cost categories and that there was no practical way to enforce this provision or to control how these costs are calculated by merchants'[32] and ultimately banned surcharging for most payment cards.

Similarly, in 2018, the UK also prohibited surcharging. Previously, in March 2011, when surcharging was permitted in the UK, a consumer group supported by over 40,000 petitioners lodged a 'super complaint' with the UK Office of Fair Trading. It found that merchants in general, and the travel and tourism industries in particular, routinely imposed surcharges "many times" the additional costs the retailer would incur for accepting card payments. Following a government investigation, the UK enacted regulations banning excessive surcharges in 2012. The legislation made it unlawful for merchants to charge fees that exceeded a payment method's cost of acceptance. Nevertheless, consumers continued to suffer due to merchant surcharging – in 2017, for example, consumers paid surcharges of up to 20 per cent and card surcharging was estimated to cost consumers $993 million[33].

By July 2017, the UK took a further step to rein in surcharging and announced a measure to prohibit surcharging on consumer cards as well as all non-commercial payment methods, including cards issued by three-party schemes, PayPal, and digital wallets. The UK expressed the need for increased price transparency for consumers. The Treasury noted that consumers would save hundreds of millions of dollars from a ban on surcharging, and a ban on surcharging became effective in January 2018[34].

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[31] Impact Assessment, Proposal for a Directive of the European Parliament and of the Council on Payment Services in the Internal Market and Proposal for a Regulation of the European Parliament and of the Council on Interchange Fees for Card-Based Payment Transactions, at 25, SWD (2013) 0288 final (July 24, 2013), available at https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52013SC0288.

[32] See Feedback statement on European Commission Green Paper, Towards an integrated European market for card, internet and mobile payments, at 17, COM (2011) 0941 final (June 27, 2012), available at https://ec.europa.eu/competition/sectors/financial_services/payments_consultation_feedback_en.pdf.

[33] £473 million converted at the rate of £1=2.1NZD Rip-off Charges to Be Outlawed. (July 2017). *HM Treasury*. Retrieved from https://www.gov.uk/government/news/rip-off-card-charges-to-be-outlawed.

[34] https://www.gov.uk/government/news/card-surcharge-ban-means-no-more-nasty-surprises-for-shoppers; January 13, 2018 (last accessed December 7, 2020).

		In Australia, the RBA introduced surcharging reforms that took effect in 2003, which required schemes to remove no-surcharge rules and rules that prevented merchants from steering consumers to lower-cost payment methods. It sought to address cases of excessive surcharging in 2013 that enabled schemes to limit surcharges to the reasonable cost of acceptance. The RBA conceded in 2016 that "there is wide agreement that the enforcement of this framework has been ineffective". In a conclusions paper that year, the RBA stated that "[a]ny surcharge that a merchant chooses to levy …. must not exceed the cost of acceptance for the relevant transaction value". In the same paper, the surcharging enforcement powers of the Australian Competition and Consumer Commission (ACCC) were enhanced.[35] Earlier this year, the RBA publicly stated that the payments landscape was very different to when surcharging was introduced. Many consumers have now shifted from paying by cash to cards and there is increased public concern about payment surcharges. "So, it is time to ask whether the surcharging framework is still fit for purpose and whether any changes need to be made," the RBA said.[36] It has also stated that all options on surcharging were on the table, including "potentially placing some limits on surcharging. For instance, given the extent to which debit cards are now the most frequently used means of payment, is it time for debit card payments to be surcharge-free?"[37] Visa encourages the Commission to consider these perspectives and the country's current position on surcharging and where generally surcharging can be prohibited on products that are subject to regulation, as it seeks to reduce costs for New Zealanders.
5	Schemes, Issuers, Acquirers	What do you consider an appropriate methodology for determining interchange fee caps in New Zealand? Why do you think this best meets the purpose of the Retail Payment System Act, and how would it be practically implemented?
	Visa Response	As mentioned earlier in this response, interchange serves as a mechanism for supporting the continuous evolution of the digital payments ecosystem in two important ways. Firstly, it serves as a mechanism for driving acceptance and enhancing the overall security and health of the payments ecosystem, including, for example, through the introduction of new payments technologies, such as tokenisation. Secondly, interchange supports issuers undertaking the risks and costs of issuing and maintaining card programs,

[35] Reserve Bank of Australia (2016), Excessive Surcharging | Review of Card Payments Regulation – May 2016 | Conclusions Paper | Submissions | RBA
[36] Reserve Bank of Australia (2024), Online Retail Payments – Some Policy Issues | Speeches | RBA
[37] Reserve Bank of Australia (2024), Transcript of Question & Answer Session on 26 March 2024 | Speeches | RBA

including needing to support investments into more advanced technologies that enhances security and enables new ways of making and receiving payments.

Importantly, innovation is continuous and as society evolves, so will the demands of digital payments. Being the advanced digital payments ecosystem that New Zealand is today, with capabilities to support merchants and consumers in their everyday payment needs, does not mean New Zealand will remain so tomorrow. Continuous investment is required, as is a focus on encouraging the digital payment ecosystem's evolution in line with market growth and advancement. Limiting the ability for interchange to support that evolution would harm the ecosystem, merchants and consumers, and the broader economy.

The Commission's specific question about the appropriate methodology for determining interchange caps is a fundamental one. We appreciate the Commission's overview of literature and international experiences with respect to methodologies that have been used to determine interchange in different scenarios. These include: (i) the Merchant Indifference Test (MIT); (ii) a cost-based methodology; and (iii) benchmarking, among others.

Below Visa details some of our concerns with these methodologies as well as case studies from around the world regarding the harm of interchange regulation on the digital payments ecosystem, including consumers. Lastly, we provide guiding principles about how to approach digital payments through the lens of "value", which better reflects the many benefits and contributions of digital payments to the payments ecosystem and the economy as a whole.

With respect to the MIT (or the Tourist Test), for example, the EC utilised this methodology when determining the rates for consumer debit and consumer credit transactions in the context of the Interchange Fee Regulation (IFR). It sought to interpret the MIT to arrive at what it believed to be an appropriate level for interchange fees. We would note that:

- the MIT does not account for the two-sided nature of payments. Rather, the methodology is focused only on merchants, and does not properly reflect the benefits that digital payments deliver to consumers, including built-in consumer protections (chargebacks, fraud protection) and permitting consumers to access credit.
- the MIT does not fully take into account the value that a merchant receives when accepting digital payments, including higher sales and revenue, and levelling the playing field between small and large

businesses. This is a significant limitation of any cost-based methodology and risks skewing the important equilibrium of risks and incentives in the marketplace.

- the EC MIT study contained a number of methodological flaws, including using cash as the sole alternative to payment cards. However, cash is not a viable option at the PoS for e-commerce transactions, which constitute a significant (and growing) percentage of digital transactions.
- the limits of the EC's application of the MIT are also acknowledged by the MIT's original creator[38] and include the risk of a narrow MIT approach leading to sub-optimal levels of innovation and investment[39].

The Commission has stated that the costs for businesses to accept Mastercard and Visa card payments are high and too complex, driving increased costs to consumers through higher costs for goods and services or surcharges[40]. The Commission has also said that the medium-to long-term impact of reduced interchange would be the promotion of greater competition and efficiency in the retail payment system[41].

However, economic research indicates that regulation is not effective in accomplishing these goals and may even have the opposite result. For example, a review of several jurisdictions that have implemented interchange regulation demonstrates that while some merchants may receive some cost reductions and savings from their acquirer contract, these savings were not necessarily passed on to consumers or resulted in lower product prices[42]. The research also indicated that in countries where interchange regulation has been enacted, there has been an increase in cardholder fees.

With respect to benchmarking with other jurisdictions, the European Union (EU), United States (US), and Australia have all implemented interchange regulation and have all experienced unintended consequences for both

[38] See Tirole, J. (2011). "Payment card regulation and the use of economic analysis in antitrust" in Competition Policy International

[39] See, for example, Reisinger, M. Zenger, H. (2019). "Interchange fee regulation and service investments" in the International Journal of Industrial Organization

[40] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 17.

[41] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 18.

[42] See, for example, *e.g.,* Hugo-Webb, Tristan, Global Regulatory Trends: Interchange Regulation, Mercator Advisory Group, Massachusetts (2013)

consumers and merchants. Industry analysis indicates a number of unintended consequences as a result of Europe's IFR reduction, listed below[43]:

- Issuers received reduced interchange and compensated by increasing the cost of payment products to consumers to maintain service levels. More specifically, card issuers received $9.1 billion[44]) less in interchange in 2018 than in 2014, despite an increase in card turnover of $1,325 billion[45]. Industry analysis also indicated that the annual fee for regulated consumer credit cards increased by 13 per cent.
- In addition, consumer choice of card products diminished post-IFR. Because issuers consolidated product offerings, the number of credit card products decreased by 14 per cent. Likewise, the number of debit cards decreased approximately 8 per cent.
- Acquirers have only partially passed through the interchange reductions to merchants. However, there is no available evidence on whether merchant to consumer pass-through took place.
- Investment in product innovation by issuers has slowed since the IFR.

Thus, and overall, it is worth highlighting that setting and/or regulating interchange based on these methodologies is not the most effective approach. In Visa's experience, it is usually innovation and new technologies that result in the best outcomes for all stakeholders, rather than regulation.

As noted above, given the complexity in determining interchange, the most effective mechanism for determining rates is a market-led approach that allows payment networks to properly balance the costs, risks, and benefits for the benefit of all participants in the digital payments ecosystem. On the other hand, regulatory action that unilaterally adjusts interchange may result in harm to the ecosystem over the long term.

Regulators in Singapore support this view. In 2013, the Competition Commission of Singapore (CCS) found that interchange fees do not have an appreciable adverse influence on competition in Singapore.[46] The CCS also concluded that interchange fee reductions could introduce barriers to entry and expansion, for certain participants (such as new acquirers) since there would be little incentive for larger banks that are both issuers and acquirers to work with them.

More recently, in 2021, the Monetary Authority of Singapore (MAS) announced that Singapore does not plan to regulate interchange due to the potential

[43] Edgar, Dunn & Company (2020), Interchange Fee Regulation Impact Assessment Study, January 2020
[44] €5.14 billion Converted at a rate 1EUR=1.77 NZD
[45] €749 billion Converted at a rate 1EUR=1.77 NZD
[46] CCS issues a clearance decision on Visas MIF system | CCCS

impact such a regulation may pose to the retail payments ecosystem.[47] Through a market-based approach, Singapore has developed a robust digital payments ecosystem and is a prime example of the value market-based principles bring to the ecosystem.

As outlined, Visa believes that a market-led approach to determine levels of interchange is the best way to support the New Zealand digital payments ecosystem over the long-term. In light of the IPS and with a view to evolving the methodology, we also believe the following principles should be considered in determining the optimal level of any interchange fee caps:

- **Ensure sufficient interchange levels that are able to support continuous payments evolution in support of the future of commerce:** Any interchange cap needs to be high enough to sufficiently support issuers' own investment (alongside investment by Visa itself) to facilitate long-term innovation in areas such as security and new payment technology. Setting the cap too low would significantly impact New Zealand's ability to provide its merchant and consumers with best-in-class future state payments technology, including in critical areas like cybersecurity and fraud prevention. Critically, any cap needs to be high enough to cater for the unknown. Neither Visa or any other participant can with certainty define what New Zealand's economy will require 10 years from now or what its payments needs will be. However, what is certain is that it will require interchange as a mechanism in driving innovation that supports rapid shifts in the risk environment and in new technologies – all necessary to enable the digital payments ecosystem to support a vibrant, innovative and inclusive economy. Setting the cap too low will remove interchange's ability to support the ecosystem and constrain the funding that is so critical for a healthy, secure, and prosperous ecosystem.

  Consistently applied cap across all schemes to ensure rate delivery to merchants: Any cap needs to be consistently applied across all schemes in the New Zealand digital payments ecosystem. To achieve the goal of lowering costs to merchants, while maintaining interchange that is high enough to support security and innovation, any cap in interchange should ultimately be delivered to the merchant via lower MSF. MSF in New Zealand is typically blended to the highest point of interchange or interchange equivalent. That means, an acquirer will set

[47] FAQs to the Payment Services Act Singapore, https://www.mas.gov.sg/-/media/mas-media-library/regulation/faqs/pd/faqs-on-payment-services-act-2019/payment-services-act-faq--31-mar-2021.pdf

		MSF to reflect Visa and MasterCard interchange as well as other schemes interchange, or interchange equivalent not covered under the IPS today. In other words, without ensuring the equal application of IPS that includes all schemes, it is highly unlikely that any cap will result in an material reduction in MSF. In addition, regulated interchange and lower MSF should result in a reduction in surcharging as merchants would no longer need to compensate for high MSF that is locked in a disequilibrium due to some schemes being excluded from IPS. Visa firmly believes that the ultimate goals and interests of the Commission, in ensuring and advanced and prosperous digital payments ecosystem that supports the national economy today and in the future, are best served by allowing a market-led approach on determining interchange levels.
6	Schemes, Issuers, Acquirers	What is the rationale for the heavy discounting of interchange fees to large businesses and the evidence to support the extent of the discounting observed?
	Visa Response	As outlined above, interchange is a mechanism that Visa uses to simultaneously support both issuance and acceptance as well as the adoption of new payment technologies. In enabling merchants, big and small, to accept digital payments, Visa sometimes provides targeted and specific interchange, such as through the provisioning of Strategic Merchant Rates (SMR) to select merchants. These SMRs are provided in order to ensure best in class digital payments are made available to consumers and to support merchants in the deployment of the latest payments technology. This includes commitments from merchants to participate in advancing innovation that supports the broader digital payments ecosystem and the economy as a whole. Visa evaluates each opportunity based on the merchant's ability to support development of the ecosystem. Beyond SMRs, as outlined in this response, Visa can and does adjust interchange as necessary at times to address certain market needs. These include accelerating acceptance for small merchants, supporting the adoption of security enhancing technologies like tokenisation, and supporting contactless adoption, which encourages new use cases, such as public transport and government payments.
7	Mastercard, Visa, Issuers	What evidence is there to support higher interchange fee rates for credit versus debit card payments?

	Visa Response	The economics of credit transactions are inherently different than the economics of debit or prepaid transactions. Debit and credit transactions carry different values for consumers and merchants, and different levels of risk for financial institutions. Importantly, debit cards have no built-in credit component and only allow the consumer to spend the money the consumer already has in their account. This limits the consumer's ability to buy goods or services today with a promise to pay for them tomorrow out of future earnings. As a result, debit transactions carry lower risks for financial institutions. Fraud on credit cards is generally more costly than on debit cards. This is primarily because credit cards, by their nature, allow for larger spending limits and deferred payments, making them attractive targets for fraudsters. When fraudulent credit card transactions occur, they often involve larger amounts compared to debit card fraud, resulting in higher fraud losses in cases where the transaction is fraudulent. The financial impact for the digital payments ecosystem can be substantial. Consequently, the heightened risk and potential for greater losses are reasons why interchange are higher for credit cards, reflecting the increased cost in managing and mitigating fraud on credit card transactions. [Redacted] Beyond the risk inherent in credit transactions, the credit card value proposition offered by issuers to both consumers and business owners has an entirely different set of benefits to serve the needs of customers compared to debit, which requires investment that interchange in part supports. Credit cards provide significant value to businesses. For example, merchants, for their part, benefit from credit products because they can generate higher ticket values and greater revenue when consumers make purchases. Additionally, both consumers and merchants benefit from the protections associated with credit products, including zero liability in the case of fraud (consumers) and guaranteed payment irrespective of whether a consumer pays its bank (merchants). Interchange for credit transactions help to balance this higher value proposition and risk profile and appropriate credit interchange create the necessary incentives for financial institutions to support the provisioning of credit to the benefit of both consumers and merchants.

Reducing domestic credit interchange may result in unintended consequences that negatively impact consumers, merchants, and the broader digital payments ecosystem, such as:

- **Reduced access to credit**: Credit programs tend to be more expensive for financial institutions to offer for several reasons, including maintaining the underlying line of credit, the period of 'free float' provided to consumers before payment is due, and the risk of default by cardholders. Compressing domestic credit interchange is likely to make the administration of credit card portfolios less attractive and require financial institutions to reassess the economics of these portfolios and the value proposition that can be offered to consumers.

- **Reduced competition and innovation**: Visa competes in a highly innovative and dynamic industry, and it continues to evolve rapidly. Consumer and merchant demands, technological innovations, and new use cases and payment options have spurred tremendous competition and investment in New Zealand. This intense market competition benefits the country.

  Reducing interchange through caps - and thereby limiting its ability to support the credit value propositions offered by issuers - limits competition and reduces innovation. New entrants would not be able to compete with established issuers due to a higher degree of cost to institute operations, investments required to continuously innovate and reduced revenues. In addition, an increasing number of consumer credit options are available to consumers in New Zealand, including but not limited to BNPL offerings, some of which sit outside existing regulatory frameworks. Similarly, IPS should include and cover all schemes operating in New Zealand, including but not limited to American Express, to avoid limiting competition. As outlined in response to Question 5, ensuring equal treatment and inclusion of all schemes will likely also have a positive impact on reducing MSF.

Visa also wishes to take this opportunity to highlight that while consumer and commercial card products may seem similar, they serve very different functions and purposes in the digital payments ecosystem, and interchange should reflect this difference. Consumer cards are used by consumers for personal use for day-to-day purchases. Commercial cards are payment cards that carry an array of value-added services designed to help businesses efficiently and effectively manage core financial, cash flow, and accounting needs. These include, among other things, access to working capital, better payment terms to facilitate greater cash flow, tools to track, manage, and control expenses, and automated reconciliation and reporting functions. Commercial cards are also often designed to help different types of businesses and business models with their specific needs, including business products for small- and medium-sized businesses and prepaid solutions focused on control and management of employee expenses. Interchange supports issuers to bear additional costs, such as issuing cards to underserved small- and medium-sized businesses.

Overall, commercial cards account for only a small proportion of cards that merchants process. In addition, most commercial cards are used within a select group of merchant categories, notably airlines, hotels, and petrol stations, as they are often related to employee mobility and business travel. That said, commercial cardholders tend to be higher spending customers and represent significant value to New Zealand merchants who serve these cardholders.

Finally, Visa wishes to address the Commission's proposal to consider expanding existing interchange regulation to include prepaid cards[48]. Prepaid cards hold unique value in the digital payments ecosystem, as they are often the first formal financial product a consumer uses. This is especially relevant for unbanked and underbanked individuals, who may otherwise have limited opportunities to access secure, convenient digital payments. As a result, prepaid products serve as an on-ramp to financial inclusion for many individuals and communities.

Prepaid products can also enable individuals and communities to pay for everyday necessities in times of emergency. For example, non-profit and government organisations have partnered with Visa following natural disasters like cyclones to distribute prepaid cards credited with a fixed amount of money that can be used to purchase supplies at local businesses.

Regulating or otherwise setting interchange caps at a specific level for prepaid products risks stifling this balance and resulting in negative consequences to the digital payments ecosystem, including issuers being less willing to take the risk of offering these products. Given the role of prepaid products in supporting financial inclusion, this would not only impact the digital payments ecosystem, but the financial futures of some individuals and communities in New Zealand.

[48] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 31.

8	Mastercard, Visa, Issuers	We welcome quantitative evidence justifying higher interchange rates on domestic card not present transactions.
	Visa Response	A CP transaction may refer to a transaction at a PoS, whereas a CNP transaction may take place on e-commerce platforms. Visa differentiates between CP and CNP transactions to properly reflect the different costs, value proposition and risks associated with each channel. CNP transactions are susceptible to more advanced and higher levels of fraud compared to CP transactions, and this is also the case in New Zealand. This is primarily due to the inherent differences in the transaction environments. In CP transactions, technologies like chip and PIN provide an additional layer of security by requiring physical verification of the card and user identity, making it harder for fraudulent activities to occur at scale. In contrast, CNP transactions are made remotely, making them easier targets for the rapid evolving and expansive nature of cyber threats. Threat actors are continuously devising new methods to perpetrate fraud and pose a persistent challenge to both the global and New Zealand merchant communities that increasingly depend on the e-commerce channel to reach their consumer base. [Redacted] Alongside the very significant investments Visa makes in its technology to provide best-in-class fraud detection capabilities, cyber security and risk management require investments across the digital payments ecosystem. Higher CNP interchange encourages and stimulates investment and innovation that enhances the transaction authentication methods and fraud detection mechanisms of issuers that benefit both merchants and consumers through reduced fraud. Ecommerce brings high value to consumers and merchants, enabling them to buy and sell products and services across New Zealand and around the world. Any regulation that applies the same capped interchange rates to CP transactions and CNP transactions would fail to take into consideration the higher costs that issuers incur when offering these higher-value, higher-risk transactions. If this risk is not taken into account, issuers are likely to adopt

		more restrictive authorisation requirements, thus leading to increased declines and poor consumer experiences and lost sales to merchants. In addition, capping interchange for ecommerce transactions could create barriers to market efforts to expand ecommerce offerings. In particular, this would negatively impact New Zealand's small and medium-sized merchants planning to grow their businesses through selling to foreign consumers based offshore.
9	Mastercard, Visa	We are seeking evidence on the rationale and methodology used to set the difference between interchange fee rates on cards issued within New Zealand and foreign issued cards.
	Visa Response	The purpose and role of interchange is the same irrespective of whether the transaction is domestic or international. However, international transactions are by nature more complex and generally higher risk - where the possibility of importing fraud into New Zealand is greater. To account for that added complexity and risk, issuers and acquirers need to invest in more advanced processing infrastructure and ensure best-in-class fraud detection solutions are in place. As a result, to encourage the adoption and growth of secure and frictionless cross-border payments that support economic growth in New Zealand by virtue of enabling its merchants to access a global consumer base, Visa uses the interchange mechanism to support the inherent added complexity of cross-border payments for issuers. Specifically: - While domestic transactions are undertaken within one jurisdiction, with all parties in the four-party model – issuers, consumers, acquirers, and merchants – being in the same jurisdiction, cross-border transactions are undertaken across two or more jurisdictions. As a result, multiple legal and regulatory frameworks must be taken into account with respect to anti-money laundering, Know Your Customer, tax treatment, and currency conversion. As a result, the costs associated with supporting cross-border transactions are significantly higher than for domestic transactions. - Cross-border transactions are more complex to settle and process, with settlement occurring most often across at least two currency pairs. This often requires additional intermediaries to be supported, such as the use of custodian banks which link cardholder issuers to the end-point settlement bank and provide services such as multi-currency settlement accounts. These accounts, in turn, incur holding costs. In most cases, there is also a foreign currency exchange between the cardholder's currency and the merchant's currency.

- The network and infrastructure linkages collectively required to connect and process transactions from almost any country, while ensuring robust fraud detection is applied, are not insignificant and are a component of the costs of digital payment networks. Importantly, cross-border transactions also face higher levels of fraud. Fraud rates on foreign-issued cards are significantly higher at five times that of fraud rates observed on domestic-issued cards. The different value proposition and risk profile as a result of the particularities of cross-border transactions requires additional investment from Visa and issuers in various technological tools to manage risk. These include chargeback processing, currency volatility management, tokenisation and cybersecurity capabilities.

Any efforts by the Commission to bring foreign-issued cards into the scope of the RPSA to regulate levels of cross-border interchange may result in a range of unintended consequences. We detail these below:

1. **Higher Decline Rates:** Issuers around the world make significant and ongoing investments that collectively contribute to a well-functioning and secure global digital payments infrastructure, including safe, seamless cross-border payments. Any intervention into cross-border interchange may remove incentives for issuers to authorise cross-border transactions, which are riskier than domestic transactions. If issuers are required to incur the significant costs associated with maintaining a cross-border portfolio, they will decline more transactions because the cost of these transactions will outweigh the revenue generated by them. This will lead to lost sales for merchants and a negative payments experience for consumers.

   [**Redacted**]

		2. **Innovation is hindered**: Interchange is an important source of revenue for fintechs and smaller financial institutions. Intervention into cross-border interchange will undermine the entrance of new players, such as payment facilitators and fintechs, that can bring more innovation and value-added services to the digital payments ecosystem. 3. **Impact on tourism and trade:** Lastly, cross-border transactions are extremely important for a nation's economy because, by their very nature, they support personal and business tourism, trade, and investments. Specifically, inbound cross-border transactions (those involving a non-New Zealand issued card being used in New Zealand) support personal and business travel and consumption at hotels, restaurants, retail, and other businesses. In turn, New Zealand merchants are able to access a global consumer base, ranging from affluent consumers with high ticket prices to business travellers. Regardless of the specific reason for a visit to New Zealand, there is a clear consumer expectation of a safe, reliable and technology-forward payments experience. These factors are particularly important for a trade-dependent and tourism-ready country such as New Zealand. To accommodate the inherent added complexity and risk associated with these transactions, interchange is calibrated to incentivise for the additional investments required to ensure secure and frictionless cross-border payments to the benefit of New Zealand merchants and consumers alike and the national economy as a whole.
10	Mastercard, Visa	Why are two categories of rates for foreign-issued cards (inter-regional and intra-regional) necessary?
	Visa Response	Intra-regional cross-border interchange apply consistently across all inbound cross-border transactions into New Zealand where the issuer is located outside New Zealand but within the Asia Pacific region. Similarly, inter-regional cross-border interchange apply consistently across all inbound cross-border transactions into New Zealand where the issuer is located in a region outside of the Asia Pacific. Differences between interchange - for example between Visa's inter-regional and intra-regional interchange - are based on the unique characteristics across markets where rates are tailored to support new technology adoption,

		innovation and, ultimately, support the wellbeing of the digital payments ecosystem. The consultation paper states that cards issued in Australia and used in New Zealand can have higher interchange than cards issued from outside the Asia Pacific region and used in New Zealand[49]. In regard to the specific rate structures, some intra-regional interchange are marginally higher than inter-regional rates, while some are lower. Average effective rates across transactions inbound into New Zealand are based on the overall portfolio composition of inbound volume across intra and inter-regional transactions respectively. Overall, effective intra-regional interchange is not higher than inter-regional interchange. [**Redacted**]
11	Mastercard, Visa, Issuers, Acquirers	Who is liable for the fraud costs associated with transactions made using a foreign-issued card?
	Visa Response	In the context of payment fraud, the liability for fraudulent transactions hinges primarily on the authentication methods implemented by the merchant, the acquirer, and the issuer. This fundamental principle holds true irrespective of the origin of the card, whether it is foreign- or domestically-issued. In most cases, if the merchant decides to authenticate the transaction through the acquirer and the transaction is successfully authenticated and approved by the issuer, the liability shifts to the issuer. If the authentication does not occur during payment processing, the liability for unauthorised transactions remains with the acquirer / merchant. At the same time, if a transaction poses a higher risk, the transaction is considered high-risk, and the issuer may choose to challenge the cardholder at the time of authentication using measures such as issuing a one-time password or employing biometric checks. If, following successful authentication and authorisation, the transaction is later identified as fraudulent, the liability then falls on the issuer. Furthermore, it's crucial to highlight that fraud prevention is a shared responsibility between the merchant, acquirer, and issuer. Based on their risk assessment of each transaction, the merchant and acquirer should utilise

[49] Commerce Commission (2024), Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 35

		fraud mitigation tools and secure technologies, such as card verification value (CVV2) and EMV 3D Secure in a CNP environment. The concept of liability and the conditions that need to be fulfilled for it to be shifted between ecosystem participants is an excellent example of the critical role that interchange plays in supporting the constant evolution of fraud across both the CP and CNP channels.
12	Mastercard, Visa, Issuers, Acquirers	We are seeking quantitative evidence of differences between levels of fraud for domestic and foreign-issued cards.
	Visa Response	Fraud data reported based on transactions processed by New Zealand acquired merchants indicate that fraud rates on foreign-issued cards are significantly higher [redacted] that of fraud rates observed on domestic-issued cards. This indicates that foreign-issued cards are inherently riskier and require a higher level of fraud prevention by the networks and the broader digital payments ecosystem. The reported trend comparing share of fraud between domestic and foreign-issued cards on New Zealand merchants in the past three years shows an increasing proportion of overall fraud contributed by foreign-issued cards compared to domestic issued cards. [Redacted] Consequently, this necessitates investments in technology and risk prevention capabilities to improve fraud detection rates. Visa has implemented programs and frameworks and offers solutions, which help digital payments ecosystem participants manage the varying levels of fraud and risk. One aspect of the Visa Integrity Monitoring Program is the focus on monitoring transactions processed on foreign-issued cards in specific high-risk verticals. Acquirers are required to ensure they have the relevant monitoring and controls in place when processing for merchants who operate such verticals. In addition, issuers and acquirers have access to the Visa Protect suite of solutions which can help them effectively manage the risk of cross-border fraud.

13	Mastercard, Visa, Acquirers	We welcome evidence and rationale for why merchants are treated differently for interchange fee application.
	Visa Response	As outlined in response to Question 6, interchange is a mechanism Visa uses to simultaneously support issuance and acceptance as well as the adoption of new payment technologies. In enabling merchants, big and small, to accept digital payments, we sometimes provide targeted and specific interchange, such as through the provisioning of SMRs to select merchants. The SMRs are provided in order to ensure best in class digital payments are made available to consumers and to support merchants in the deployment of the latest payments technology. This includes commitments from merchants to participate in advancing innovation that supports the broader digital payments ecosystem and the economy as a whole. We evaluate each opportunity based on the merchant's value to the digital payments ecosystem. Beyond SMRs, Visa can and does adjust interchange as necessary at times to address certain market needs. These include accelerating acceptance for small merchants, supporting contactless adoption and encouraging new use cases, such as public transport and government payments.
15	Mastercard, Visa, Acquirers, Issuers	Please provide evidence of any other aspects of the implementation of any changes to interchange fee caps that impacts compliance or other business costs.
	Visa Response	Adjustments to interchange require a coordinated approach in making changes effective across independent systems and infrastructure. This process may involve investments in technology upgrades and system integrations. Issuers and acquirers may also need to provide refreshed communications to customers/merchants, including cardholder and marketing materials, website updates and training of call centre teams, resulting in additional costs for all the participants in the payment ecosystem.
18	Mastercard, Visa, Issuers, Acquirers	How fit for purpose is the current anti-avoidance provision? Please provide evidence of any challenges and whether there are other more efficient solutions.
	Visa Response	In considering anti-avoidance, it is important to consider both the IPS and net compensation regulation in combination. In New Zealand, net compensation is the net value of any payments, rebates, incentives, or other means of monetary and non-monetary compensation that are made after the date on

		which the RPSA received Royal Assent and that has the purpose of compensating an issuer for the effect of the IPS. As always with regulation, consistent and transparent application is critical. By including interchange in the assessment of net compensation the Commission adds complexity that may be difficult to monitor consistently across all schemes the IPS covers. Net compensation considers a wide range of compensation that is provided to and/or benefits an issuer, whether directly or indirectly. Critically, it also needs to be established whether or not the compensation had relevant purpose - in other words, whether it sought to compensate for the effects of IPS, or not. Such purpose does not need to be the sole reason for the compensation, but a component alongside others. Competition is a critical component of a healthy and innovative payment ecosystem. To safeguard competition, it is important to ensure that net compensation assessment is carried out consistently across all relevant schemes to ensure equal treatment. Visa's position is that the current net compensation is overtly complex and risks limiting competition as a result of inconsistent application.
19	All stakeholders	Please provide any evidence of other impacts a material reduction in interchange fees for Mastercard and Visa could have on the New Zealand retail payment system.
	Visa Response	**Interchange regulation in New Zealand and assessment timeline** In August 2023, the Commission published a report[50] that set out its preliminary assessment of the impact of domestic interchange fee regulation. Specifically, the report focused on how much merchants can benefit from the interchange fee caps imposed by the IPS through lower MSFs. The Commission estimated that interchange fee regulation would provide over $130 million in annual savings to acquirers (based on data until March 2023). Of this, the Commission estimated that $105 million would be passed through to businesses in the form of lower MSFs, which would then be passed to the consumers through lower surcharges or lower prices on goods and services. However, the Commission believe that further information gathering, and analysis is required to assess the incomplete pass through of interchange fee reductions to merchants.

[50] Commerce Commission (2023), Retail-Payment-System-Observations-on-the-impact-of-interchange-fee-regulation-8-August-2023.pdf (comcom.govt.nz)

Visa wishes to draw attention to the Government Expectations for Good Regulatory Practice, as laid out by the Treasury for New Zealand's regulatory agencies. It states that "a regulatory system should deliver, over time, a stream of benefits or positive outcomes in excess of its costs or negative outcomes. We should not introduce a new regulatory system or system component unless we are satisfied it will deliver net benefits for New Zealanders.[51] With these expectations in mind, in Visa's view, it is premature to recommend additional intervention regarding interchange caps in New Zealand until the Commission determines if the existing regulation has met its policy objectives as well as assessing the impact that expanded regulation will have on the digital payments ecosystem.

Unintended consequences of regulation

Based on Visa's global experience, regulatory intervention that further compresses interchange or MSF can result in unintended consequences for consumers, merchants and the digital payments ecosystem. These may include reduced investments in technology and infrastructure by issuers and acquirers, less innovation, and uncertainty over whether perceived cost reductions actually benefit consumers. Further regulation, in the form of lower caps, diminishes the ability of interchange to serve as a mechanism to encourage investment in security, new technologies, and innovation - all of which are constantly evolving.

Regulatory interventions in a thriving sector often leads to unintended consequences, like reduced security and innovation, and an unlevel playing field for competition. This is especially true for regulations that exclusively focus on card payments, and do not take into account the influx of new providers and payment methods in the industry. Such intervention can shift consumer spending to payment options that are less secure and more expensive, and that do not demonstrate the same commitment to security, transparency and efficiency that payment networks like Visa have dedicated themselves to for decades.

The 2022 paper "The Effects of Price Controls on Payment-Card Interchange Fees: A Review and Update", published by the International Centre for Law and Economics[52], references evidence that following regulated interchange reductions in Spain card issuing banks materially increased the annual average

[51] New Zealand Treasury (2017), https://www.treasury.govt.nz/publications/guide/government-expectations-good-regulatory-practice, Page 4
[52] International Center for Law and Economics (2022), The Effects of Price Controls on Payment-Card Interchange Fees: A Review and Update - International Center for Law & Economics (laweconcenter.org)

card fees (for example, a 56 per cent[53] increase in Debit card fees) and raised the interest rates applying to credit card balance, making up "at least a large fraction of what was lost from the interchange-fee caps". The same paper stated that the RBA's hope that its interchange-fee regulations would save consumers money does not appear to have materialised. In the 19 years since the regulations came into effect, there has been no substantive evidence that merchants have passed savings on to consumers[54].

Meanwhile in the US, the paper finds that following the implementation of debit interchange regulations, "covered banks increased the minimum balance required to qualify for free checking accounts and narrowed the types of account that qualified". In addition, "the monthly cost to maintain a checking account had already doubled during the second half of 2010, as banks prepared for the revenue effects of the Durbin amendment". The paper concludes that "interchange-fee caps have harmed the very people they were supposed to help. Wherever they have been implemented, they have resulted in lower revenue for issuing banks, which have responded by increasing fees for consumers, either on bank accounts, on credit cards, or both". It adds that these fee increases have in general been "highly regressive, hurting those with lower incomes the most. Second, in some cases, such as with the Durbin amendment in the United States, the higher fees have resulted in many people becoming unbanked[55]".

The Commission estimated that "merchant service fees could reduce by over $250 million" by "assuming a 90% pass-through rate of interchange fee reductions to merchant service fees."[56] This estimate and the proposals that are built upon it assumes a digital payments ecosystem response that has not yet taken place. Importantly, it also does not consider the other potential impacts of additional regulatory intervention, such as reductions in innovation, fraud prevention and protection, and consumer benefits. The digital payments ecosystem in New Zealand is robust and thriving, with many new payment providers entering the market. As the ecosystem is still adjusting to regulated interchange rates, it is possible that any positive trends are still the result of a long-standing market-driven approach to interchange.

[53] International Center for Law and Economics (2022), The Effects of Price Controls on Payment-Card Interchange Fees: A Review and Update (laweconcenter.org), Page 17
[54] International Center for Law and Economics (2022), The Effects of Price Controls on Payment-Card Interchange Fees: A Review and Update (laweconcenter.org), Page 26
[55] International Center for Law and Economics (2022), The Effects of Price Controls on Payment-Card Interchange Fees: A Review and Update (laweconcenter.org), Page 36
[56] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Sections 4.3, Page 24, including footnote 44.

Until the regulation has been in place for some years, it is simply too early to tell.

Competitive neutrality of retail payment system regulation

As we noted in response to Question 4, the Commission has stated that one of the changes in the way consumers pay due to further interchange fee regulation can be a shift of credit customers to American Express[57]. The Commission has also noted the recent growth of American Express in the New Zealand market and has stated that American Express cards are more expensive for merchants to accept[58].

Despite this, the Commission is not considering any recommendation to designate the American Express network at this stage but will continue to monitor the number of cards issued and transactions processed along with the MSF charged[59]. This decision appears to overlook the potential for an uneven playing field, where certain payment networks are subject to regulations while others remain unregulated. This is also counterintuitive to the Commission's intent of lowering costs to merchants.

As mentioned in the Commission's consultation paper, BNPL entities come with significantly higher costs for merchants (MSF of up to 5 per cent[60]) than interchange-based card transactions. If the Commission were to further reduce interchange, both networks and issuers would potentially be at a significant disadvantage to unregulated participants, such as BNPL entities, and have little to no incentive to deliver future innovative payments solutions in New Zealand over time. This could result in consolidation of financial services, significantly reducing competition and negatively influencing New Zealand's digital payments ecosystem.

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[57] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 43.

[58] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 15

[59] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 44

[60] Commerce Commission (2024), *Costs to Businesses and Consumers of Card Payments in Aotearoa New Zealand Consultation Paper*, available at Retail-Payment-System-Costs-to-businesses-and-consumers-of-card-payments-in-Aotearoa-New-Zealand-Consultation-Paper-23-July-2024.pdf, Page 44

About Visa

Visa is a world leader in digital payments, facilitating transactions between consumers, retailers, financial institutions and government entities across more than 200 countries and territories. Our mission is to connect the world through the most innovative, convenient, reliable and secure payments network, enabling individuals, businesses and economies to thrive. We believe that financial inclusion is foundational to the future of money movement.

Building the future of commerce

In New Zealand, Visa has a physical presence in Auckland. Together with our New Zealand financial institution, fintech and retail partners, as well as our technology partners, we are committed to building a future of commerce that fosters the country's economic growth and innovation. One way we are realising this is through Visa Partner Portal and Fintech Fast Track. These programs provide New Zealand fintechs with access to Visa's technologies, networks, products and services, thereby enabling businesses to scale their solutions for the benefit of consumers, businesses and the economy.

Additionally, Visa is a member of Digital Boost, Digital Identity NZ and Fintech NZ and contributes to these groups, especially through our global experience and perspectives. We also have close relationships with Payments New Zealand, Retail New Zealand and the New Zealand Bankers Association, and we regularly consult with them on matters relating to the New Zealand digital payments ecosystem.

Enabling convenience, security, and trust

As a network business built on partnerships, Visa continues to enable new payment flows and expand acceptance, ensuring that every New Zealander can pay, and be paid, in a secure and convenient secure way. We work with the broader digital payments ecosystem to ensure security is at the forefront of payments technology, including tokenisation, AI-powered fraud prevention, biometrics and digital identity solutions. In 2022, Visa launched the Visa Security Roadmap: 2022-2023, outlining how ecosystem partners in New Zealand can collectively work towards a more secure ecosystem, including implementing new measures to counter cybercrime for New Zealand businesses.

Supporting New Zealand businesses

Enabling New Zealand businesses to thrive is at the heart of Visa's mission. As the digital economy advances, Visa is committed to enabling New Zealand businesses to adapt and grow through payments innovation.

Visa was the first official FIFA Women's World Cup 2023 Partner and launched the She's Next Grant Program in New Zealand and Australia during the FIFA Women's World Cup Australia & New Zealand in 2023 - as part of our effort to empower women-owned small businesses in the region through grants and mentorship programs.

Visa also supports the Visa NZ Hospitality Scholarship (valued at $30,000), to attract and retain more young people into the industry and support them to take up hospitality as a fully-fledged career. The scholarship includes a five-day placement at a top international hospitality venue, professional development, a one-year mentorship, business training and future participation in Visa Wellington on a Plate (VWOP), the largest food festival in the Southern Hemisphere sponsored by Visa.

To learn more, visit www.visa.co.nz