

11 October 2022  
Commerce Commission  
Submitted to: [market.regulation@comcom.govt.nz](mailto:market.regulation@comcom.govt.nz)

## RE: Retail Payment System Act 2022 - Draft guidance on the initial pricing standard

### Introduction

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's Retail Sector. We are the peak body representing retailers in New Zealand, with our membership accounting for around 70 per cent of total domestic retail turnover. The retail sector generates an annual turnover of around \$112bn. We have sought input from our members in preparing this submission.
2. About three-quarters of all retailers in New Zealand turned over less than \$1m in 2020. Fewer than 100 retailers exceeded \$100m in turnover, while only the top 20 in the sector exceeded \$200m in revenues. Average net margins in the sector are low with rising rents, increases in the minimum wage, and the financial impact of COVID-19 influencing this.

### Overall

3. Retail NZ agrees with much of the guidance provided by the Commerce Commission.
4. We recommend the Commerce Commission ensures there are accessible tools for businesses to use when completing due diligence regarding interchange fees under the Initial Pricing Standard (IPS).
5. We support strengthening the definition of Commercial Credit Payment Products (CCPPs).
6. We recommend the Commerce Commission, at its earliest convenience, review its decision to exclude CCPPs and payment instruments outside New Zealand from the IPS.
7. We strongly recommend that you require acquirers to disclose the total number of transactions for each payment type, the total merchant fees (including, inter alia, interchange) charged for each payment type.

### Equipping businesses, big and small

8. Retail NZ wants to ensure retailers are receiving the maximum benefit from the IPS. For example, what toolkits will be provided to retailers, to help ensure that businesses are being charged the correct interchange fees. We recommend that these toolkits are created with industry associations like us, to be provided to sectors.
9. It's important to maximize transparency when it comes to interchange fees, especially for smaller businesses who tend to not be on bespoke rates. Equally, smaller businesses receive the greatest benefit from the introduction of the IPS, given their tight margins. Therefore, access to adequate support for the smaller businesses is paramount.
10. The survey recently floated by the Commerce Commission in relation to understanding merchant fees should be the baseline for figuring out whether a business understands what they're meant to be charged in interchange fees, and what they will be saving under the new caps.

11. Bearing this in mind, it is important the Commerce Commission considers what tools already exist, and what further can be done, to ensure businesses have the right tools to do their due diligence. Retail NZ would be prepared, to help design and deliver resources for the goods and services sector, alongside the Commerce Commission, but may need some support for this.

### **Commercial Credit Payment Product (CCPP) definition**

12. We support the strengthening of the definition of a Commercial Credit Payment Product (CCPP), as it provides better clarity to anyone navigating the IPS guidance.

13. Specifically, the clarity provided as to what a 'credit product' is, as mentioned in cl 7(4) of schedule 1 when defining a CCPP.

### **Commercial credit payment products and payment instruments issued outside New Zealand**

14. The decision to exclude commercial credit payment products and payment instruments issued outside New Zealand from the initial IPS should be reviewed at the earliest convenience. We strongly recommend that these are brought within the scope of the regulatory framework.

15. Interchange rates for CCPPs and payment instruments issued outside New Zealand are considerably higher than those of traditional debit and credit captured by the IPS. For businesses, this means a higher cost of acceptance, that unfortunately has a disproportionate impact.

16. For example, if the IPS is to remain unchanged, a merchant that is reliant on tourists carrying foreign issued cards will continue to be charged a significantly higher rate per transaction than traditional credit. This ultimately creates an uneven playing field.

17. As part of our 2021 submission to government during the select committee stage of the Bill, we recommended CCPPs, and foreign issued cards be caught by the initial IPS. We stand by this recommendation.

18. Overseas examples (e.g., Australia) show that regulators need to quickly adjust and then regulate overseas and commercial cards once regulation of other merchant fees happens.

19. Therefore, we would recommend that at the earliest convenience, the Commerce Commission includes CCPPs, and payment instruments issued outside New Zealand from the IPS.

### **Information required to assess compliance**

20. In section 7 of the discussion paper, you outline disclosure requirements for participants in order to assess compliance with the IPS. We agree with your proposal.

21. However, the information about interchange is only part of the picture. The entire regulatory regime is intended to reduce costs to merchants and interchange fees are only one component. You are not proposing to require the disclosure of average merchant fees charged by the banks.

22. We strongly recommend that you require acquirers to disclose the total number of transactions for each payment type, the total merchant fees (including, inter alia, interchange) charged for each payment type.

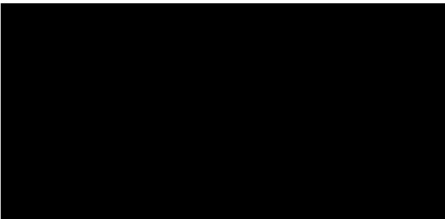
23. This is particularly important to ensure the benefits of the regulation are being passed on to merchants and consumers. It is not clear that this is happening.

24. Indeed, we are aware of a number of cases where merchants are being advised that at least some of their merchant charges are increasing, despite the fact that regulated interchange rates are decreasing.

25. Requiring acquirers to disclose this additional information will enable the commission to assess the effectiveness of the regulatory regime.

Retail NZ thanks you for the opportunity to make a submission on the IPS guidance and welcomes further engagement in this space.

Kind regards,



Greg Harford  
Chief Executive  
Retail NZ