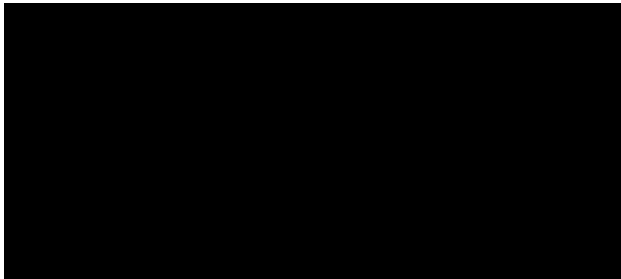


28 April 2023



Official Information Act #22.148 – Response

1. We refer to your request received on 28 March 2023 for information about card transaction fees for Hutt City parking. You would like to know if the Commerce Commission (**Commission**) has investigated this matter, and if so, the outcome of any investigation.
2. We have treated this as a request for information under the Official Information Act 1982 (**OIA**).

Our response

3. The Commission refers to the fees charged to consumers by businesses or other organisations for using some payment methods, such as credit cards, as payment surcharges. Merchants are able to apply a payment surcharge for certain payment methods.
4. The Commission can investigate where there is a possible breach of the laws the Commission enforce. There are two laws of relevance: the Fair Trading Act 1986 (FTA) and the Retail Payment System Act 2022 (RPS).

Fair Trading Act

5. If a merchant imposes a surcharge, it must be clearly disclosed and the reasons for the surcharge accurately described to ensure it is not misleading and complies with the FTA.
6. The Commission is not currently investigating Hutt City Council in respect of card transaction fees under the FTA.
7. We receive thousands of enquiries every year, and while we assess everything that we receive, we are unable to investigate everything. There is more information

about this on our website here <https://comcom.govt.nz/make-a-complaint/complaint-process>

8. While we are not investigating Hutt City Council at this particular time, all information that is provided to the Commission is valuable to feed into the Commission's work programme and future priorities.
9. In considering whether to investigate issues that come to its attention, the Commission considers the available information for its relevance to the Commission's responsibilities and current work programme, its enforcement criteria and priority areas for new enforcement work.

Retail Payment System Act

10. The Commission has recently been given powers to regulate the retail payment system, under the RPS.
11. One of the powers of the Commission under the RPS is to issue standards that merchants must comply with to ensure that payment surcharges for payment services are no more than the cost to the merchant of the payment services used for accepting that payment.
12. The Commission has not yet issued any such standard and therefore a payment surcharge cannot breach the RPS.
13. It follows that the Commission is not currently investigating Hutt City Council in respect of its payment surcharges for a possible breach of the RPS.

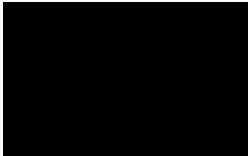
Other relevant work

14. The Commission is currently monitoring payment surcharges and we have identified appropriate payment surcharging as a focus area for us, as per our [open letter](#) which explains our work in greater detail. Our work on surcharging includes:
 - 14.1 providing information for merchants to assist them with surcharging appropriately – this information includes indications of the rates of merchant service fees we expect merchants to be able to obtain from their acquirer;
 - 14.2 encouraging payment service providers to assist merchants in surcharging appropriately; and
 - 14.3 encouraging some larger merchants that appear to have suboptimal surcharging practices to improve them.
15. If you would like to receive email updates on what we publish, please email retailpaymentsystem@comcom.govt.nz with the subject line 'Subscribe RPS'.

Further information

16. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
17. Please do not hesitate to contact us at oiia@comcom.govt.nz if you have any questions about this response.

Yours sincerely



OIA and Information Coordinator