23 JULY 2024

Retail Payment System

Costs to businesses and consumers of card payments in Aotearoa New Zealand: Consultation Paper

Submission Template

Purpose of this template

1.1 This template provides details on how to make submissions on our **Costs to businesses and consumers of card payments in Aotearoa New Zealand: Consultation Paper** and the confidentiality considerations.[1] It also provides the full list of questions outlined in the paper to assist with written submissions.

Providing your views by submission

1.2 We are seeking your feedback on the views and questions raised in our paper, and on any other aspects of the retail payment system landscape that you consider relevant. Your feedback will help inform whether a review of interchange fee regulation is necessary.

1.3 In addition to written submissions using the process set out in this document, we also welcome requests to meet to discuss any aspects of this paper (within the consultation period) and are open to conducting facilitated feedback sessions with stakeholder groups. Please contact us if you think either of these alternative engagement options would be beneficial.

1.4 You do not need to respond to all the questions raised in this paper, you can instead just respond to the questions that relate to your business operations or experience.

1.5 Whilst we will accept a range of formats, our preference is for submitters to use this template. Responses can be emailed to RetailPaymentSystem@comcom.govt.nz with 'Consultation on costs to businesses and consumers of card payments in Aotearoa New Zealand' in the subject line.

1.6 To ensure your feedback can be considered, please provide this to us by **12.00pm (noon), Monday 2 September 2024**.

Confidentiality

1.7 While we intend to publish submissions on our website, we understand that it is important to parties that confidential, commercially sensitive, or personal information (confidential information) is not disclosed as disclosure could cause harm to the provider of the information or a third party.

1.8 Where your submission includes confidential information, we request that you provide us with a confidential and a public version of your submission. We propose publishing the public versions of submissions on our website. We note that responsibility for ensuring that confidential information is not included in a public version rest with the party providing the submission.

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1 Commerce Commission "Costs to businesses and consumers of card payments in Aotearoa, New Zealand: Consultation Paper" (23 July 2024) available at https://comcom.govt.nz/regulated-industries/retail-payment-system#projecttab

1.9 Where confidential information is included in submissions:

1.9.1 the information should be clearly marked and highlighted in yellow; and

1.9.2 both confidential and public versions of submissions should be provided by the due date.

1.10 All information we receive is subject to the principle of availability under the Official Information Act 1982 (OIA). There are several reasons that the Commission may withhold information requested under the OIA from disclosure. This includes, most relevantly, where:

1.10.1 release would unreasonably prejudice the commercial position of the supplier or subject of the information;

1.10.2 withholding the information is necessary to protect the privacy of natural persons; and

1.10.3 we received the information under an obligation of confidence, and if we were to make that information available it would prejudice the supply of similar information to us (by any person) where it is in the public interest that such information continues to be supplied to us.

1.11 If we consider that any of these potential reasons for withholding apply, we must still consider the public interest in release. As the principle of availability applies, the information may only be withheld if the potential harm from releasing it is greater than the public interest in disclosure. This 'balancing exercise' means that in some cases information can be released where nonetheless there is some possible harmful effect that might appear to justify withholding it.

1.12 We do not need to receive an OIA request for information for the principle of availability to apply. We can release information that in our assessment should be made publicly available. We will not disclose any confidential or commercially sensitive information in a media statement or public report, unless there is a countervailing public interest in doing so in a particular case. Such cases are likely to be rare.

1.13 We will consider any request from a party who wishes to keep their identity and/or the content of their submission anonymous. However, this request must be discussed with us first before the submission is provided to us. Submitters must justify any request for anonymity by providing reasons.

1.14 **Table 1.1** provides the full list of our submission questions.

Table 1.1 Full list of our submission questions

Question number	Target Audience	Question
1	Merchants	Do merchant service fee complexities drive challenges in determining whether and how you surcharge?
2	Merchants	Would you consider lowering or even ceasing to surcharge if your merchant service fees were less than 1% for in person card payments?
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?
4	All stakeholders	We welcome further evidence of any other issues within the New Zealand retail payment system
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?
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?
7	Mastercard, Visa, Issuers	What evidence is there to support higher interchange fee rates for credit versus debit card payments?
8	Mastercard, Visa, Issuers	We welcome quantitative evidence justifying higher interchange rates on domestic card not present transactions.
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.
10	Mastercard, Visa	Why are two categories of rates for foreign-issued cards (inter-regional and intra-regional) necessary?
11	Mastercard, Visa, Issuers, Acquirers	Who is liable for the fraud costs associated with transactions made using a foreign-issued card?
12	Mastercard, Visa, Issuers, Acquirers	We are seeking quantitative evidence of differences between levels of fraud for domestic and foreign-issued cards.
13	Mastercard, Visa, Acquirers	We welcome evidence and rationale for why merchants are treated differently for interchange fee application.
14	Mastercard, Visa, Acquirers, Issuers	We welcome evidence of the impact of hard caps and percentage rates on compliance costs.
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.
16	Acquirers	How would you reduce merchant service fee rates for your customers on fixed or blended pricing?
17	Acquirers	How would you provide your customers with an overview of the intended impact on them of further price regulation?
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.
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.

Chapter 2 Response from Sektor Limited

Contact Details:

(we would welcome a fuller in-person discussion)

Sektor Limited, 525 Great South Rd, Penrose, Auckland 1061

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Author: Andre van Duiven (CTO and Head of Payments)

[redacted]

[redacted]

Background

Sektor is a large IT distributor in NZ, Australia, Malaysia and Thailand. One of our divisions distributes Payment Terminals (PAX). Sektor started in New Zealand 15 years ago was the exclusive Verifone distributor for 5 years before Verifone acquired that business when it purchased EFFTPOS NZ. Prior to that most of our team worked at Provenco so we have 20+ years Payments Industry experience. We have distributed PAX terminals in Australia for 6 years and started in New Zealand last year.

We have read the document and find ourselves in the interesting position of not having any commercial interests impacted by the recommendations of the document and therefore in a reasonably objective position. We do feel there are several areas covered in the document that require correction or a reconsideration of what is proposed. We have done our best to outline these below.

Question 4 Response

4	All stakeholders	We welcome further evidence of any other issues within the New Zealand retail payment system

Debit Perceived as Free

Although Debit has zero interchange cost it is not free to the merchant. The MAF charged by the switches is a cost borne by New Zealand merchants that simply doesn't exist in Australia. Over time this has been increased significantly while terminal rental prices have come down. Ten years ago the MAF fee (although an additional cost) was approx. 20% of the monthly terminal fee while now it can be 60%.

There is no competitive element to the price setting of the MAF fee and the independent companies that control it are free to charge with what they can get away with in the current market. The merchant landscape is naïve in this regard as they have become used to it from history yet it would never survive in another country's payment industry.

The New Zealand interchange and MAF arrangement around Debit was revolutionary and valuable to drive EFTPOS adoption in the 1990s but is now flawed while the banks are no longer in control of the switching (owned by two global public companies) and now there is no competition possible. Indeed any alternative mechanisms would need to have transactional revenue and it's hard compete with "free".

NZ Debit Restricts New Entrants

One key aspect we don't feel the report covers is the complete lack of competition available in New Zealand from an acquiring perspective because of the huge barrier to entry caused by New Zealand's proprietary debit system. As Sektor are active in Australia and New Zealand we are constantly presented with this stark contrast. In the card present space new acquirers are prevented from entering because they can't have a debit offer that isn't sponsored by one of the existing players in the market (who understandably are not driven to open this up to more competition). We have a handful of card present acquirers active in New Zealand while in Australia we have been dealing with more than forty. We are constantly approached by acquiring partners from Australia that have customers in New Zealand but can't find a way to offer debit.

It would be interesting to compare the number of acquirers in New Zealand that offer card not present versus card present to get a sense of this contrast. Our expectation is that these numbers will be significantly different while in Australia they will be much more aligned.

This situation simply limits competition in the card present acquiring landscape. We feel it is this lack of competition that is more of a driver for the issues outlined in the report.

Surcharging is a Problem But Interchange Reduction Won't Fix It

Surcharging is definitely a problem, not that merchants can surcharge but the sheer range of surcharges that appear in the market without any control. The issue with what has been suggested as the solution as it is hard to imagine a drop in interchange will drive the drop in MSF as recommended by the report. There is not enough market power to reduce MSF given the lack of competitive environment (as outlined above) and it is more likely that acquirers will simply bank some of the reduction and offer a gesture to the market. One would need to look at the demand curve for acquiring services, there are a small number of players and a reduction in MSF doesn't drive a significant increase in market share hence players are not driven to reduce prices to increase sales. They are more likely to use the increase margin to develop more valuable products to differentiate their offering to then increase sales. This has historically proven to be more successful but will not reduce MSF.

Similarly, whatever reduction in MSF that is delivered to the merchants is also unlikely to be passed on to their customers. As MSF is such a small percentage of their sales they also don't see an increase in sales as a product of a change in MSF (and surcharging accordingly) by reducing the sale value by 0.7% (for example that would be halving the MSF from 1.4% to 07%).

In this way all the work done to reduce interchange is very unlikely to result in consumer benefit.

The key issue with surcharging specifically is that the requirement for it to be no more than the MSF the merchant has incurred, is simply not enforced. We have many examples of surcharges at 2.5% where the merchant is getting charged no more than 1.5% MSF. The key issue is how do you enforce this?

Alternative Mechanism to Control Surcharging

It would be much more effective to control surcharging using the payments technology the industry is currently deploying. In Australia the surcharge amount is included in the transaction record (this can be done in New Zealand as well) and the acquirer is in a position to hold the surcharge amount separately. Many acquirers will only return the surcharge amount to the merchant based on a fixed percentage of the sale (close to the MSF). In this way there is no motivation for the merchant to charge more than the MSF as they don't get the incremental funds.

It would be possible in New Zealand for the acquirers to manage merchants so they are unable to charge more than the MSF as a surcharge. This is a very cheap and effective alternative to any other policing mechanism for surcharging and would absolutely drive and immediate reduction in surcharges incurred by the consumer.

One Rate For Interchange?

We deal with New Zealand's major retailers and also the tier 4 merchants. The concept of having a single rate across the board for interchange for all merchants will be extremely problematic. The concept of market power (as per the Porter's Five Forces) is an extremely important one when considering a healthy competitive market. A fixed rate would completely undermine that dynamic (as such we experience in the supply of equipment outside of Payments to the retail market).

Outside of Payments we sell retail hardware and software to the full range of merchants in New Zealand. The are dramatic differences in requirements, volume and commercial arrangements across the tiers. Suppliers must be given the flexibility to adjust pricing to compete appropriately to provide the best (and most economic) solution to their customers. Having the price fixed simply drives inappropriate behaviour in the market, reduces availability and functionality as players try to adjust all the other levers they have to try and meet the market's range of expectations. This is what you see in "non free-market" economies with reduced innovation, limited supply and rationing resulting in a significant reduction in utility for consumers. With a fixed rate there will be a large number of merchants that simply won't be able to get a merchant facility.

Our view to managing an excess of charging in the card payment industry supply chain is to facilitate greater competition. The natural free market mechanisms provide for industry players to innovate and/or reduce pricing and the market rewards those that are most effective. The New Zealand Payment Industry is certainly viewed as a market with extremely high barriers to entry by our Australian neighbours. This alone is an indication of something that needs to be changed urgently and will provide a much safer mechanism to achieve the desired outcomes outlined in the report.

Same Rate For Card Present and Card Not Present

The differences in validation, risk, processing technology are vastly different between card present and card not present. The ability to validate a card holder in a card present transaction provides real value in reducing risk. Similarly, it makes sense for the merchant to be rewarded for their investment in the technology to provide cheaper processing platform for the volume of their card transactions.