

25 October 2022

To interested parties:

## **Notification of initial monitoring under the Retail Payment System Act 2022**

1. We are undertaking initial monitoring of the retail payment system under s 6(a) of the Retail Payment System Act 2022 (the **Act**).

### **Background**

2. The Act introduces a new regulatory regime for the retail payment system and confers certain functions and powers on the Commerce Commission (**Commission**).
3. In particular, s 6(a) of the Act provides that one of the Commission's functions under the Act is to monitor competition and efficiency in the retail payment system.
4. In our open letter to participants dated 18 May 2022 we noted our need for information from participants to inform wider system monitoring and our intention to work closely with industry as we develop our understanding of the system.

### **Purpose of initial monitoring**

5. As this is a new area of responsibility for the Commission, we need to build our understanding of the retail payment system such that we can effectively monitor it.
6. The purpose of our initial monitoring is to build our understanding of:
  - 6.1 the main retail payment networks;
  - 6.2 the participants of those networks, including their offerings and how they compete with each other;
  - 6.3 consumers and merchants use of the retail payment system, and how well it meets their needs; and
  - 6.4 trends and changes in the above matters over time.
7. This will enable us to:
  - 7.1 assess, at a high-level, the current state of competition and efficiency in the retail payment system; and

- 7.2 monitor the impacts of the initial pricing standard (**IPS**) on competition and efficiency in the retail payment system.
- 8. Our initial monitoring will also inform the scope of our future work programme, including any further monitoring. For example, our initial monitoring may lead to us look more deeply at aspects of certain networks or extend the scope of the networks we monitor.

### **Networks in scope of initial monitoring**

- 9. The primary focus of our initial monitoring is on the initial designated networks – being the Mastercard and Visa credit and debit networks. These networks are also subject to the interchange fee caps under the IPS.
- 10. We will also monitor certain undesignated networks which may be impacted by (or benefit from) the IPS. However, our monitoring of these networks is expected to be lighter touch.
- 11. At this stage, we intend to monitor the following non-designated networks:
  - 11.1 The American Express network;
  - 11.2 Buy now pay later networks;
  - 11.3 The EFTPOS network; and
  - 11.4 The interbank transfer network (eg, online banking).

### **Stakeholders involved in initial monitoring**

- 12. Over the course of our initial monitoring, we will engage directly with, and seek to gather information from, a range of stakeholders we identify as having information which is relevant to our initial monitoring. This includes scheme operators, issuers, acquirers, switches, terminal providers, payment gateways and loyalty scheme providers.
- 13. Because the focus of our initial monitoring is on the designated networks, we will likely seek more information from participants in those networks compared to participants in the non-designated networks listed above.

### **Our anticipated process**

- 14. We intend to carry out our initial monitoring over the next 12 to 18 months. This timeframe may change, and we anticipate providing further details on timeframes as our monitoring progresses.

15. We have split our initial monitoring into tranches. At this stage, we envisage seeking information in two tranches, but further tranches may be required. We will tailor the scope of tranche two and any further tranches based on the information we receive in earlier tranches.

*Tranche one*

16. Tranche one focuses primarily on the designated networks, and seeks to build our knowledge of:
  - 16.1 how participants are structured;
  - 16.2 participants' current market offers;
  - 16.3 how participants monitor the performance of their own retail payment products and services; and
  - 16.4 contractual relationships between participants.
17. We intend to send requests for information relating to tranche one to the relevant stakeholders in the coming weeks. Information will be sought on a voluntary basis and largely relates to existing documents which should be easy to provide.

*Tranche two*

18. Once we have analysed the information provided in tranche one, we will engage with stakeholders on the further information we are seeking as part of tranche two.
19. The extent of information sought, and the range of parties contacted, in tranche two will be broader than for tranche one. Tranche two will include (among other things) requests for summary financial and quantitative information, including on customer bases, transaction volumes and values, revenues, costs, and trends.
20. Before issuing any tranche two request, we intend to hold discussions with the relevant stakeholders regarding their ability to provide information in the requested formats and whether there is alternative lower-cost information which may meet our needs. In some instances, we may also provide draft information requests for stakeholders to comment on prior to issuing any final request.
21. We will be in touch to set up meetings with the relevant stakeholders in due course.

**What we will do with the information provided**

22. Much of the information we will need to undertake our initial monitoring will likely not be in the public domain. We expect some of the information we obtain will be commercially sensitive.

23. We recognise the need to ensure that you can have confidence in our use and retention of information and have processes in place for the protection of any confidential information.
24. Any information we receive can be requested under the Official Information Act 1982 (the **OIA**). This means we would be required to release requested material unless good reason existed under the OIA to withhold it. We would normally consult with the party that provided the information before any disclosure is made.

*Outputs from the initial monitoring*

25. We expect to publish a summary of our initial monitoring after its conclusion, which we anticipate will largely comprise aggregated and anonymised data.
26. We will advise stakeholders of the scope of that summary, and any opportunity to comment, at a later date.

**Next steps**

27. If you have questions in relation to this letter, please email [retailpaymentsystem@comcom.govt.nz](mailto:retailpaymentsystem@comcom.govt.nz).

Yours sincerely

Matthew Lewer  
Manager, Retail Payment System  
Commerce Commission