

Retail Payment System

Payments Between Bank Accounts

Request for views on payments made over the interbank payment network

Date of publication: 31 July 2023



Glossary

Term	Definition
Access standard	A network standard issued by the Commission under subpart 2 of Part 2 relating to a matter referred to in section 20(1)(c) of the Act
Act	Retail Payment System Act 2022
API	An Application Programming Interface (API) is a set of routines, protocols, and tools for building software applications. An API specifies how software components should interact
API Provider	An API Provider refers to a register bank or non-bank deposit taker that provides APIs to a payment provider. In this request for views paper, the terms API Provider and bank are used interchangeably
BECS	The Bulk Electronic Clearing System (BECS) governs how a range of bulk electronic transaction types are made between its participants. It governs how direct debits, automatic payments, bill payments, and direct credits work
Commission	The Commerce Commission
Consumer	A person that acquires good or services from a merchant
Consumer Data Right	A legal framework that requires businesses that hold data (data holders) to share prescribed data that they hold about customers (customer data) with trusted third parties (accredited requestors) with the consent of the customer
Designated network	Means any retail payment network that is: (a) declared to be a designated retail payment network under subpart 1 of Part 2 of the Act; or (b) designated under an initial designation of the Act
Direction	Means a direction of the Commission under subpart 3 of Part 2 of the Act in relation to network rules
Interbank payment network	This is the retail payment network that bank transfers are initiated on by the consumer or merchant by sending payment instructions directly to the consumer's bank. Bank transfers include automatic payments, direct credits, bill payments and direct debits
Merchant	A supplier (within the meaning of the Fair Trading Act 1986) of goods or services to consumers. In this paper, we have used merchant and business interchangeably
Minister	Minister of Commerce and Consumer Affairs
Network	Means a retail payment network
Network operator	In relation to a retail payment network, means any person that is or does 1 or more of the following: (a) is wholly or partly responsible to the participants (or any of them) for the network rules (b) operates or manages the network or the core infrastructure of the network
NFC	Near field communication (NFC) is a short-range wireless technology that enables devices, such as a smartphone, tablet or smartwatch, to transfer information between devices quickly and easily with a single touch, including for making payments

Participant	Means a person that is a network operator or any other service provider
Payment	Means a transfer of monetary value
Payment method	Means the form in which a consumer makes or is able to make a retail payment (for example, using a card online or without contact in person)
Payment product	Means a class of retail payment within a retail payment network (for example, personal or commercial retail payments within a retail payment network)
QR code	A quick-response (QR) code is a machine-readable code consisting of an array of black and white squares typically used for storing information for reading by the camera of a smartphone
Retail payment	Means a payment by a consumer to a merchant for the supply of goods or services
Retail payment network	Means the participants, arrangements, contracts, and rules that facilitate a class of retail payment
Retail payment system	Means the system comprising all retail payment networks
SBI	Settlement before interchange (SBI) is a payment settlement and interchange system used by Payments NZ's BECS and consumer electronic clearing system (CECS) participants (primarily banks)
Standard	Means a network standard or a merchant surcharging standard

Contents

Executive Summary	5
Chapter 1 Introduction.....	9
Chapter 2 Observations on the payments between bank accounts landscape	13
Chapter 3 Observations on bank transfers made over the interbank payment network	21
Chapter 4 Opportunities for New Zealand’s interbank payment network	30
Chapter 5 Regulatory powers to promote competition and efficiency.....	38
Chapter 6 Possible next steps.....	48
Attachment A Legal Framework	50
Attachment B Submission Response Template	54
Attachment C Broader Retail Payment System landscape	59

Executive Summary

Promoting an environment for new entrants and payment networks

- X1 One of our current initiatives for the Retail Payment System is to promote an environment for new entrants and payment networks in New Zealand.¹
- X2 As part of this, we are working to understand how new payment options that allow consumers to make payments between bank accounts will meet the purpose of the Retail Payment System Act 2022 (the **Act**).² This is, to promote competition and efficiency in the retail payment system for the long-term benefit of businesses and consumers in New Zealand.³

Lack of recent innovation in bank transfers

- X3 We have observed the lack of recent innovation in options to make bank transfers in New Zealand, particularly the limited ability to make in-person payments using bank transfers. In this paper, we use the term bank transfers to include bill payments, automatic payments, direct debits or direct credits. The current options to make bank transfers do not provide businesses with a simple trusted indication that a payment has been made by a consumer in the same way that card payments do.
- X4 Our current view is that we consider a retail payment network designation and subsequent use of our regulation-making powers is necessary to enable an environment where new entrants can launch innovative new options to make bank transfers in New Zealand.

This contrasts to innovations in options to make bank transfers in other countries

- X5 Overseas payment related regulation, including open banking and consumer data right (**CDR**) regimes, have enabled environments where new entrants have created innovative options to make bank transfers for in-person and online payments. These include in-person bank transfers initiated using mobile phone apps that use either a quick-response (**QR**) code, the near field communication (**NFC**) capability of their phone or a unique identifier such as a username or phone number.

¹ Commerce Commission “Retail payment system – work programme update” (20 March 2023) available at: https://comcom.govt.nz/_data/assets/pdf_file/0017/310445/Retail-Payment-System-Work-programme-update-20-March-2023.pdf

² In accordance with section 3 of the Act.

³ In this paper, we have used the terms “merchant” and “business” interchangeably and these include non-business entities such as government and sole traders.

- X6 While overseas regulations are often associated with open banking or CDR regimes, they are not always. Our retail payment system regulatory powers can be complementary to the New Zealand Government’s work to develop a CDR regime via the Customer and Product Data Bill.⁴
- X7 Specifically, our powers can require the banks to provide access to the necessary systems ahead of the legislation going live for the banking sector. This will reduce the risk of delays in the CDR implementation due to the banking sector not being ready.

New payment options will provide benefits to businesses and consumers and provide competition to existing payment options driving a more efficient retail payment system

- X8 Bank transfers are typically one of the lowest cost payment options and one the fastest at settling, with funds typically available within several hours. Increasing the availability of this payment option increases the competitive pressure on other payment options which are higher cost, such as debit cards, credit cards and buy now-pay later.
- X9 Cost studies in a number of jurisdictions estimate the social cost of payments to various economies to be between 0.8% and 1.0% of GDP.⁵ We do not have enough information at this stage to estimate the comparable cost to New Zealand.
- X10 Some factors of the social cost of payments would be the cost to businesses of accepting payments, the speed in which businesses receive the payment and the time cost of businesses to reconcile payments. New payment options are likely to benefit business on all three of these elements. The benefits to consumers include providing new, convenient ways to make low cost payments.
- X11 Eftpos cards have provided a low cost option for a long period, applying competitive pressure on these other in-person card payment options. However, Eftpos card use is in decline due to consumer preferences and disincentives on the banks to issue Eftpos cards. This decline could result in a reduction of its competitive pressure on these other payment options.

⁴ MBIE “Consumer data right” (18 June 2021) available at: <https://www.mbie.govt.nz/business-and-employment/business/competition-regulation-and-policy/consumer-data-right/>

⁵ More information on these studies is available at European Central Bank “The Social and Private Costs of Retail Payment Instruments – A European Perspective” (September 2012) <https://www.ecb.europa.eu/pub/pdf/scpops/ecbocp137.pdf>; Bank of Canada “The Costs of Point-of-Sale Payments in Canada” (March 2017) <https://www.bankofcanada.ca/wp-content/uploads/2017/03/sdp2017-4.pdf>; and on Sweden and Norway at Sveriges Riksbank “Cost of Payments in Sweden” (March 2023) <https://www.riksbank.se/globalassets/media/rapporter/riksbanksstudie/engelska/2023/riksbanksstudie-cost-of-payments-in-sweden.pdf>

Payments NZ is coordinating work with industry which we support

- X12 Payments NZ is coordinating work with banks and the providers of new payment options (**payment providers**) on some of the requirements to enable an environment where new entrants can create innovative options to make bank transfers.
- X13 This industry-led work is establishing the common specifications in which these payment providers will securely connect with the banks to make bank transfers (**API standards**).⁶ This work is also simplifying the process for the payment providers to partner with the banks. Payments NZ has recently agreed with industry a minimum open banking implementation plan (**industry implementation plan**) that includes delivery milestones for the banks to build APIs and be ready to partner with payment providers.⁷
- X14 We support this work, but despite industry talking about this for several years, progress has been disappointing. The Government has advised industry to make progress, but only one of the five largest banks has built APIs to the standards required in the industry implementation plan.⁸ These API standards have been available for over three years, so we consider that the banks have already been provided sufficient time to build them and be ready to partner with payment providers. We are concerned that there will be further delays to this work.

Our regulatory powers can complement Payments NZ's work

- X15 We consider we can use our regulatory powers under the Act to complement Payments NZ's work to create an environment that enables payment providers to launch innovative options to make bank transfers. This would create more certainty that the banks will meet Payments NZ's implementation plan. Where necessary, there are powers to deal with speed of delivery and the setting of standardised pricing methodology or levels and reasonable access terms for payment providers to partner with the banks.

⁶ An application programming interface (API) is a set of routines, protocols and tools for building software applications. An API specifies how two computer applications talk to each other. The API standards are the specifications in which an API is built to. A good explanation of an API is in this video "What is an API?" from MuleSoft Videos, available at: <https://www.youtube.com/watch?v=s7wmiS2mSXY>.

⁷ API Centre "Minimum Open Banking Implementation Plan" (30 May 2023) available at: <https://www.apicentre.paymentsnz.co.nz/standards/implementation/minimum-open-banking-implementation-plan/>

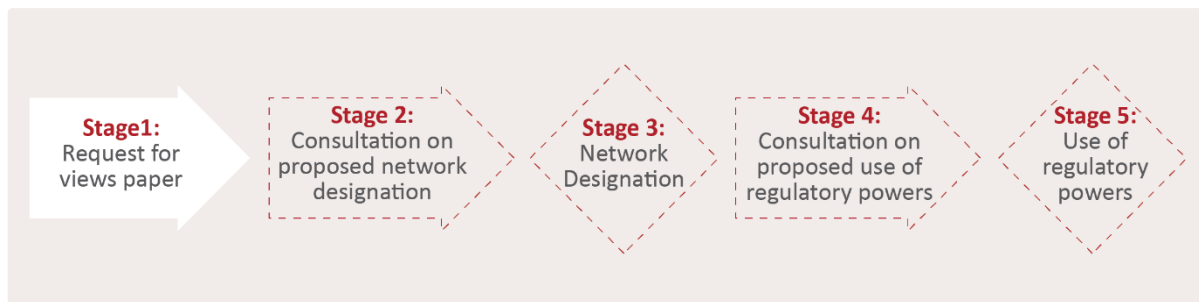
⁸ The Minister of Commerce and Consumer Affairs sent this open letter to API providers in 2019 expressing his concerns on the current pace and scope of progress of API development. See Hon Kris Faafoi, Minister of Commerce and Consumer Affairs "Open letter to API Providers regarding industry progress on API-enabled data sharing and open banking" (December 2019) available at: <https://www.mbie.govt.nz/assets/open-letter-to-api-providers-regarding-industry-progress-on-api-enabled-data-sharing-and-open-banking.pdf>

- X16 This certainty will give payment providers and banks more confidence to develop commercial models to bring new innovative options to make bank transfers to market, promoting competition and efficiency in the retail payment system for the long-term benefit of businesses and consumers in New Zealand.

We need your feedback

- X17 We are seeking your views on this paper to gauge whether we have characterised the issues and opportunities appropriately, and to support our decision on whether to move forward with this work.
- X18 The potential next steps if we decide to move forward are shown in Figure X1. This includes further opportunities to provide feedback before any regulatory interventions are taken, including a consultation on a proposed recommendation to designate the interbank payment network (Stage 2) and on the proposed network standards or network rule directions (Stage 4).

Figure X1 Potential next steps



Chapter 1 Introduction

Purpose of this paper

- 1.1 This paper seeks feedback on how we can better promote new payment options that allow consumers to make payments between bank accounts, and how we could use our regulatory powers to address potential barriers.
- 1.2 We consider that a designation of the interbank payment network under the Retail Payment System Act 2022 (the **Act**) and the subsequent use of our regulatory powers is necessary to complement industry's efforts to overcome these barriers.⁹
- 1.3 We consider we can provide regulatory certainty that the banking sector will deliver upon its commitments to allow payment providers to securely connect with the banks to initiate bank transfers,¹⁰ using application programming interfaces (**APIs**) technology.¹¹
- 1.4 This should enable payment providers to have confidence to launch innovative options to make bank transfers, promoting competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand.¹²
- 1.5 Before deciding to start the process of recommending a designation of the interbank payment network, we are testing our views with this paper. There are four chapters that we seek stakeholder feedback on:
 - 1.5.1 **Chapter 2 - Observations on payments between bank accounts** - outlines why we are focusing on the interbank payment network and why we consider using our regulatory powers now is complementary to other initiatives in this area, such as Payments NZ's API work and the Government's consumer data right (**CDR**) work.
 - 1.5.2 **Chapter 3 – Observations on bank transfers made over the interbank payment network** - highlights the key features of bank transfers and the range of ways payment providers can connect with the banks to initiate bank transfers, ranging from optimal to sub-optimal methods.

⁹ Chapter 5 includes a full description of the interbank payment network.

¹⁰ Bank transfers include bill payments, automatic payments, direct debits or direct credits.

¹¹ An API is a set of routines, protocols and tools for building software applications. An API specifies how two computer applications securely connect. APIs are discussed further in Chapters 3 and 4.

¹² In accordance with section 3 of the Act.

- 1.5.3 **Chapter 4 – Opportunities for New Zealand’s interbank payment network** - sets out the requirements to enable a more competitive and efficient interbank payment network. These relate to an environment where payment providers can securely connect with the banks using open APIs to make bank transfers on reasonable terms. We also explore the barriers preventing this from occurring.
- 1.5.4 **Chapter 5 - Regulatory powers to promote competition and efficiency** - provides our definition of the interbank payment network and how we consider our regulation-making powers under the Act could be used to achieve a more competitive and efficient interbank payment network in New Zealand.

Background

Overview of the retail payment system

- 1.6 Payments are the most used financial services in Aotearoa New Zealand. Anytime anyone buys something, gets paid, transfers money, or uses an automated teller machine (**ATM**), they are using the retail payment system.
- 1.7 The retail payment system is comprised of various retail payment networks – which include the participants, arrangements, contracts, and rules that enable a class of retail payments to be processed. Examples of retail payment networks include debit card and credit card networks, interbank payment network, digital wallet networks and buy now-pay later networks.

The Commission’s role under the Act

- 1.8 The purpose of our retail payment system work is to promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand.¹³
- 1.9 In addition to the purpose, which the Commission must exercise its functions and powers for, the following principles must also be considered to the extent they are relevant:¹⁴
- 1.9.1 merchants and consumers should pay no more than reasonable fees for the supply of payment services;¹⁵ and
- 1.9.2 the retail payment system provides a reasonable degree of transparency.¹⁶

¹³ In accordance with section 3 of the Act.

¹⁴ In accordance with section 4(1) of the Act.

¹⁵ In accordance with section 4(2)(a) of the Act.

¹⁶ In accordance with section 4(2)(b) of the Act.

- 1.10 Our core functions are market monitoring and information dissemination, regulation-making and compliance and enforcement.¹⁷ This means that when making decisions, we must make decisions that promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers, and we must consider the principles at section 4(2) where we consider these principles are relevant.
- 1.11 Further information on our role under the Act can be found in the Legal Framework of this paper at **Attachment A**.

Key drivers of our work

- 1.12 We are working towards New Zealanders having ways to pay that are faster and cost less. We will be doing that by:
- 1.12.1 promoting competition and efficiency across the retail payment system so that New Zealanders benefit from greater value, innovation, choice, and productivity in their payment options;
 - 1.12.2 improving transparency by making the right information visible and accessible so that businesses and consumers can make informed choices about the ways they pay and get paid; and
 - 1.12.3 intervening to reduce harm where competition isn't working and reduce surcharges to no more than cost.
- 1.13 We have identified five focus areas to guide our current work programme as we move forward. These are detailed in our 20 March 2023 work programme update.¹⁸

Submissions

- 1.14 We are seeking your feedback on this paper by 4pm 25 September 2023. Further details on the submission process and confidentially considerations are provided in Attachment B, including a link to an editable template to assist with written submissions.

¹⁷ Commerce Commission "Our role under the Retail Payment System Act 2022" (2 May 2023) summarises the purpose and principles of the Act and our key functions, available at: https://comcom.govt.nz/_data/assets/pdf_file/0030/314868/Retail-Payment-System-Our-role-under-the-Retail-Payment-System-Act-2022-2-May-2023.pdf

¹⁸ Commerce Commission "Retail payment system – work programme update" (20 March 2023) available at: https://comcom.govt.nz/_data/assets/pdf_file/0017/310445/Retail-Payment-System-Work-programme-update-20-March-2023.pdf

- 1.15 We welcome requests to meet to discuss any aspects of this paper and we are also open to conducting facilitated feedback sessions with stakeholder groups to provide an alternative format to receive feedback. Please contact us if you think either of these options would be beneficial.

Next Steps

- 1.16 The submissions received in response to this paper will be published on the Commission's website (subject to the confidentially considerations provided in Attachment B).
- 1.17 Once we have reviewed the submissions, there are two paths we could take:
- 1.17.1 stop this work if we consider regulatory interventions under the Act are not required at this point; or
 - 1.17.2 start the process of recommending an interbank payment network designation under the Act.
- 1.18 If we decide to start the process of recommending a network designation, we will conduct public consultations on the draft recommendation as required by the Act and described in more detail in Chapter 6 of this paper.
- 1.19 Please contact Marty Cohen Cubitt (Principal Adviser, Retail Payment System Regulation) at retailpaymentsystem@comcom.govt.nz if you have any question in relation to this consultation process.
- 1.20 An indicative timeframe for our process is set out in Figure 1.1.

Figure 1.1 Timeline of consultation period



Chapter 2 Observations on the payments between bank accounts landscape

Overview of this chapter

- 2.1 In competitive markets, market participants must constantly develop and improve their services and products to avoid falling behind their competitors. This often leads to efficiency in the form of lower prices and better solutions through greater value, innovation, and choice (among other things).
- 2.2 In markets with certain features this competitive process may be hampered, resulting in outcomes that are less efficient for consumers and businesses. The retail payment system in New Zealand has markets where these conditions can and do exist, and the Act was passed to give us the powers to intervene to improve outcomes for consumers and merchants.
- 2.3 In this chapter we discuss:
- 2.3.1 our observations on competition and efficiency in payments between bank accounts;
 - 2.3.2 opportunities to promote competition and efficiency in this payments landscape and issues in relation to these; and
 - 2.3.3 why we are seeking views on these observations and opportunities now.

The payments between bank accounts landscape

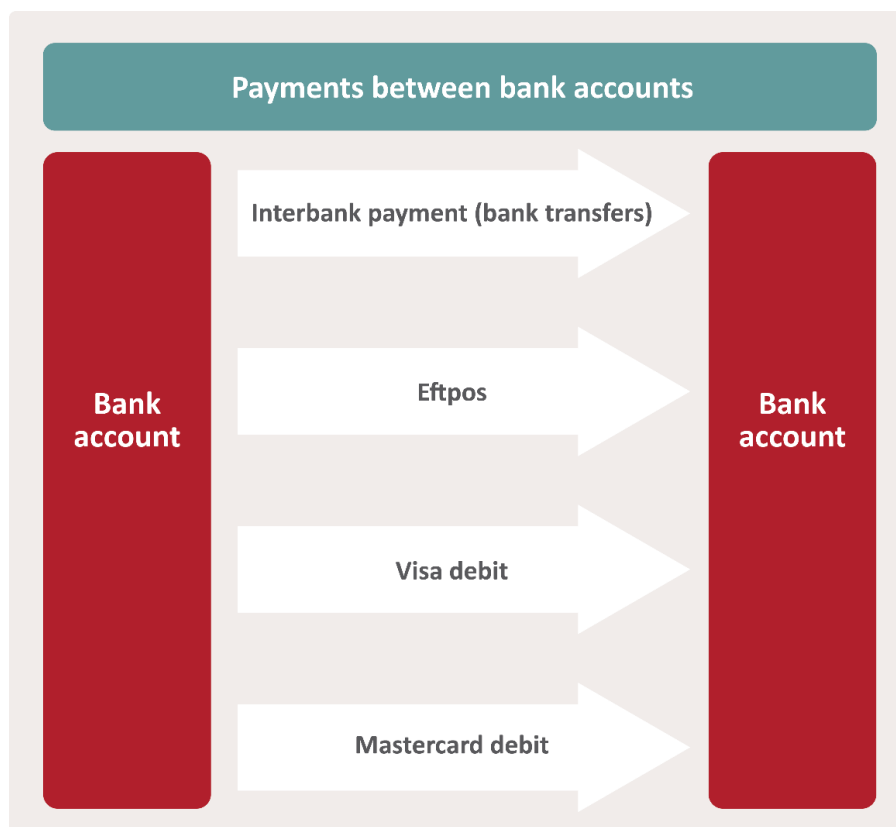
- 2.4 There are three broad options for making these payments as shown in Figure 2.1.

Figure 2.1 Methods for making payments between bank accounts



- 2.5 There are currently four retail payment networks in New Zealand that can be used to make these payments between bank accounts as shown in Figure 2.2. Each network supports up to three payment options.

Figure 2.2 Retail payment networks that enable payments between bank accounts



- 2.6 The broader payment landscape is shown in Attachment C which includes credit cards and other non-bank account payments. Credit card payments are not considered to be a payment between bank accounts. This is because the money transferred does not come directly from the payee's bank account, but rather it is borrowed from the bank or other credit provider.

Eftpos network

- 2.7 This network can be used for payments between bank accounts only via the in-person with contact payment option.¹⁹ This network is accessed through either an Eftpos card or a Visa/Mastercard debit card if it is inserted or swiped.²⁰ This cannot be used for contactless payments or online because Eftpos cards do not have the necessary chip nor online capability, and Visa/Mastercard debit cards use the Visa or Mastercard network for contactless and online payments.

¹⁹ When using the Eftpos network, one bank account must be a business account.

²⁰ We note that some credit card issuers provide for consumers to access their bank account through the Eftpos network if the cheque or savings buttons are pressed when the credit card is inserted or swiped.

Visa debit network and Mastercard debit network

- 2.8 These networks can be used for payments between bank accounts via all three broad payment options, in-person with contact, in-person contactless and not in-person, such as online.

Interbank payment network

- 2.9 This network can be used for payments between bank accounts via only the not in-person payment option, using automatic payments, direct credits, bill payments and direct debits (**bank transfers**).
- 2.10 Using this network to make in-person payments is generally not an option as merchants do not typically accept bank transfers for in-person payments. The features of the different bank transfers include:²¹
- 2.10.1 automatic payments are fixed reoccurring payments;
 - 2.10.2 direct credits are one-off payments;
 - 2.10.3 bill payments are also one-off payments and operate similarly to direct credits, but come with additional functionality; and
 - 2.10.4 direct debits are like direct credits but are initiated by the payee and they can be either one-off payments or reoccurring.
- 2.11 The interbank payment network is defined in Chapter 5, where we discuss how our regulation-making powers could be applied to this network.

Our observations on competition and efficiency in payments between bank accounts

- 2.12 In the remainder of this section, we set out our observations on competition and efficiency in the payments between bank accounts landscape.²² Given our role under the Act, we would like to test these observations (among others) and opportunities for promoting competition and efficiency in the retail payment system.

²¹ Additional context on the interbank payment network at RBNZ “New Zealand’s Payment Landscape: A Primer” (9 November 2022) available at: <https://www.rbnz.govt.nz/hub/-/media/project/sites/rbnz/files/publications/bulletins/2022/new-zealands-payment-landscape-a-primer.pdf>; and Payments NZ “Payment Methods” available at: <https://www.paymentsnz.co.nz/resources/payment-methods/>

²² We recognise that competition and efficiency observations can be closely interlinked and may be conceptualised in different ways. We welcome views on this.

Concentration in the payments between bank accounts landscape in New Zealand

2.13 We observe high concentration in New Zealand’s payment between bank accounts competitive landscape, and particularly in in-person payments. We explain this observation below in relation to the two forms of in-person payments:

2.13.1 **In-person and “contact” payments between bank accounts.** Although there are four retail payment networks (listed above) with each providing up to three payment options, an individual consumer making an in-person “contact” payment typically has only two payment options available. These two options are Eftpos or one of either Visa or Mastercard debit cards. This is because:

2.13.1.1 Making payments on the interbank network (e.g. bank transfers) are not often a viable option for in-person payments; and

2.13.1.2 Each bank has an exclusive arrangement with either Visa or Mastercard to issue only their cards. This means that a consumer who only has one banking relationship will only have access to only one of these debit cards, not both. Even consumers with multiple banking relationships may still only have access to one of these networks as four of the five biggest banks issue Visa cards.

2.13.2 **In-person and “contactless” payments between bank accounts.** For contactless payments between bank accounts, Eftpos is not a payment option, so an individual consumer only has the one option, the Visa or Mastercard debit card issued by their bank.

2.14 In observing these limited options, we consider there is high concentration and likely limited competitive constraint to Visa or Mastercard debit cards for in-person “contact” and “contactless” payments between bank accounts.

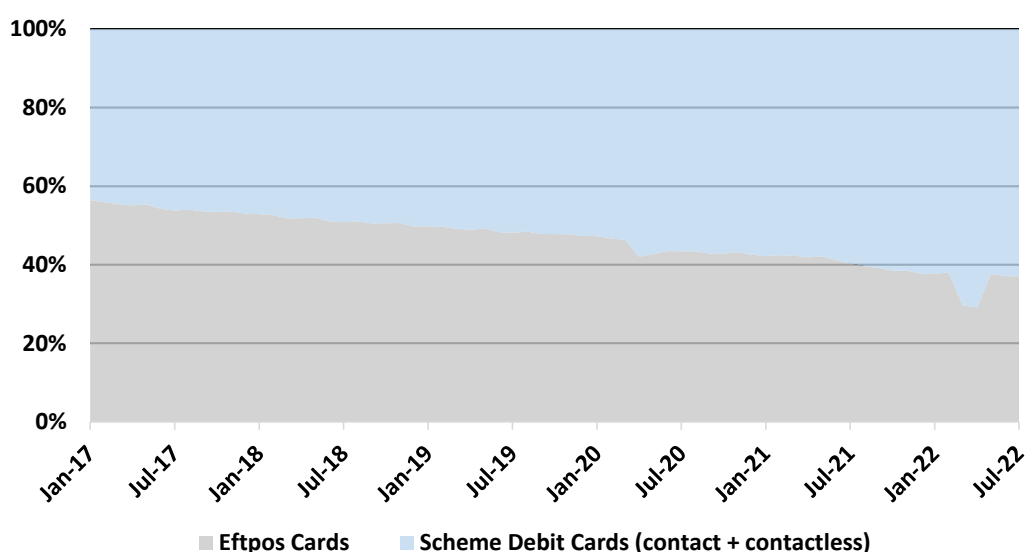
2.15 Where incumbents face limited or no competitive constraint, they can profitability and sustainably increase prices above competitive levels with limited incentive to innovate.²³ Ultimately, this can result in less beneficial outcomes for consumers and merchants, including higher prices or fewer payment options.

²³ We also note that while market share and concentration measures, and changes in these, sometimes provide only limited information on competitive constraint, we consider that the combination of high concentration and barriers to payment provider entry/access to the interbank payment network (which we discuss in Chapter 4), indicates competition issues are more likely.

Declining Eftpos card use for in-person payments in New Zealand

- 2.16 On a related point, we observe a declining trend in Eftpos card use. Figure 2.3 shows the decline in Eftpos card market share, compared to the combined Visa and Mastercard debit cards (contact and contactless), by value for in-person payments between January 2017 and July 2022.
- 2.17 An important distinction is the difference between Eftpos card use (using the magnetic stripe technology) and Eftpos network use, which also includes Visa and Mastercard debit cards that are inserted or swiped. It is Eftpos card use that provides the competitive pressure, so we have focussed on this in Figure 2.3.

Figure 2.3 Persistent decline in Eftpos card use (in-person payments)²⁴



- 2.18 We consider there are a number of factors driving this trend, which is likely to continue if these factors persist, including:
- 2.18.1 consumer preferences for contactless payments;
 - 2.18.2 consumer preferences for secure chip technology;
 - 2.18.3 card issuers (banks in this context) face incentives to issue debit cards over Eftpos cards as they can earn revenue with debit cards, whereas they pay a fee for the Eftpos card payments their customers make;
 - 2.18.4 lack of innovation in the Eftpos card functionality; and
 - 2.18.5 lack of marketing of Eftpos to consumers;

²⁴ We have created this chart from data sourced from Payments NZ.

- 2.19 This decline in Eftpos card use indicates an ongoing lessening of the competitive constraint described at paragraph 2.15. Worldline, the operator of the Eftpos network, has recently acknowledged that “the amount of Eftpos transactions is decreasing to the point where it comes hard to justify the capital outlay to maintain the networks.”²⁵

Payment solutions are progressing more rapidly in other markets

- 2.20 We do not consider the level of innovation for payments between bank accounts in New Zealand is progressing at the same rate as in other jurisdictions. In other jurisdictions payment providers have created new innovative options to make bank transfers for in-person and online payments. These can compete with other options for payments between bank accounts offered by the incumbent Visa and Mastercard debit networks.²⁶
- 2.21 We note that some payment providers in New Zealand have launched innovative options to make banks transfers. However, these payment providers are not able to efficiently access the interbank payment network. Therefore, their payment solutions cannot provide the same beneficial outcomes to consumers and merchants as those seen in these other markets.²⁷

Consumer protection risks

- 2.22 On a related point, faced with barriers to accessing the interbank payment network in New Zealand, some payment providers resort to sub-optimal network access approaches that increase the risk to consumers. For example, some approaches require the sharing of usernames and passwords with the payment provider. This is contrary to scam and fraud protection advice and likely in breach of banks terms and conditions. This may reduce consumer protection in the event of fraudulent activity.
- 2.23 We consider these risks to consumer protections in emerging payment provider options likely also represent an opportunity to promote competition and efficiency in the retail payment system. This would include better, more efficient, outcomes for merchants and consumers.

²⁵ National Business Review “Worldline develops independent digital eftpos card” (July 2023) available at: <https://www.nbr.co.nz/tech/worldline-develops-contactless-non-scheme-virtual-payment-card/>

²⁶ Chapter 3 provides more detail on these innovations and use cases in other jurisdictions.

²⁷ The most efficient manner to access the interbank payment network is via open application programming interfaces (APIs). APIs are a set of routines, protocols, and tools for building software applications. An API specifies how software components should interact.

Promoting more competition and efficiency in payments between bank accounts

- 2.24 Given these observations on payments between bank accounts, we are proposing to use our regulation-making powers to enable payment providers to access the interbank payment network in an efficient manner. This will enable them to develop innovative options to make bank transfers to compete with existing options to make payments between bank accounts.
- 2.25 In our view, this competition would result in better, more efficient, outcomes for merchants and consumers in various ways. These improved outcomes could include more choice through new payment options, more innovation through increased functionality, improved consumer protections, and increased pricing constraint on Visa and Mastercard debit network fees (which may become critical if Eftpos use continues to decline).²⁸

Why we are requesting views now

- 2.26 We are seeking views now because we consider our regulation-making powers can support the work of industry and government in a complementary manner. This has been reinforced by recent activity which has given us more clarity on related work programmes:
- 2.26.1 Payments NZ's publication of a 'minimum open banking implementation plan';²⁹ and
- 2.26.2 The Ministry of Business, Innovation and Employment's (MBIE) publication of a 'Customer and Product Data Bill' and accompanying discussion documents on establishing a consumer data right (CDR) in New Zealand.³⁰

Payments NZ's API work

- 2.27 Payments NZ is coordinating work with banks and payment providers on some of the requirements to enable an environment where new entrants can create innovative options to make bank transfers.³¹
- 2.28 We support Payments NZ's efforts, but we have not observed sufficient progress from the banks with this project. Therefore, we consider regulatory intervention could help achieve these outcomes. Payments NZ's work and the barriers that are preventing the progress is discussed further in Chapter 4.

²⁸ This is discussed further in Chapter 4.

²⁹ API Centre "Minimum Open Banking Implementation Plan" (30 May 2023) available at: <https://www.apicentre.paymentsnz.co.nz/standards/implementation/minimum-open-banking-implementation-plan/>

³⁰ MBIE "Discussion document – Unlocking value from our customer data" (June 2023) available at: <https://www.mbie.govt.nz/dmsdocument/26877-unlocking-value-from-our-customer-data-bill-discussion-document-pdf>

³¹ API Centre "About" available at: <https://www.apicentre.paymentsnz.co.nz/about/>

New Zealand Government's Customer and Product Data Bill

- 2.29 The New Zealand Government has signalled its intention to introduce an economy-wide CDR regime via the Customer and Product Data Bill. Banking is expected to be the first sector to be designated. Once implemented this would overcome some of the barriers preventing payment providers from gaining efficient access to the interbank payment network.
- 2.30 It is uncertain when the CDR banking sector rules will be established and implemented. Therefore, we consider that the use of our powers can require the banks to provide access to the necessary systems ahead of the CDR going live for the banking sector. This will reduce the risk of delays in the CDR implementation due to the banking sector not being ready.
- 2.31 A key feature of the proposed Customer and Product Data Bill, and our payments between bank accounts work is that both intend to use as a starting point the open API standards developed through Payments NZ.³² This should provide industry assurance that any API developments required as a result of our payments between bank accounts work is complementary with what is currently proposed in the Customer and Product Data Bill.
- 2.32 We acknowledge that there are number of unknowns at this stage about the interaction of potential regulatory interventions, and the banking sector rules under the proposed Customer and Product Data Bill. We will continue to engage with MBIE as the Customer and Product Data Bill is progressed and the banking sector rules are developed, which may result in changes to our approach.

Questions on New Zealand's payments between bank accounts landscape

- Q1:** Do you agree that Eftpos card use is likely to continue to decline? If not, why not?
- Q2:** Do you agree with our assessment of the factors contributing to the decline in Eftpos card use? If not, why not?
- Q3:** What do you see as the barriers to innovation and success for Eftpos?
- Q4:** Do you agree with our view that the decline in Eftpos card use is reducing the competitive pressure on the debit card networks for in-person payments and that this may have a detrimental impact on consumers and merchants over time? If not, why not?
- Q5:** Do you agree with our view that competitive pressure in the payments between bank accounts landscape could be increased by enabling an environment where payment providers develop innovative options to make bank transfers? If not, why not?

³² MBIE "Discussion document - Unlocking value from our customer data" (June 2023), para 78, available at: <https://www.mbie.govt.nz/dmsdocument/26877-unlocking-value-from-our-customer-data-bill-discussion-document-pdf>

Chapter 3 Observations on bank transfers made over the interbank payment network

Overview of this chapter

3.1 This chapter provides observations on bank transfers made over the interbank payment network, including our views on some of the issues with making bank transfers over this network and how these can be addressed with innovative options to make bank transfers.

Features of bank transfers

3.2 Consumers and merchants face various benefits and problems with traditional bank transfers when they are initiated directly with their bank, without any payment provider overlay services. These benefits and problems are summarised in Table 3.1 and Table 3.2.

Table 3.1 Benefits of traditional bank transfers

Merchant and consumer <u>benefits</u> with bank transfers	
Transaction fee	<ul style="list-style-type: none"> Bank transfers have the lowest direct costs for consumers and merchants of payment instruments that are linked to banks accounts. When a consumer pays a merchant through a bank transfer, neither party is charged a fee. Eftpos payments incur charges for merchants, and Visa and Mastercard debit card payments can incur charges for both consumers and merchants.³³
Settlement	<ul style="list-style-type: none"> Bank transfers settle faster than other payment instruments that are linked to a bank accounts. Bank transfers typically settle within a few hours, and this has recently been extended to include settlement on 365 days a year.³⁴ Eftpos payments, Mastercard or Visa debit card payments will generally not settle until the next day.

³³ Eftpos incurs fixed monthly terminal charges for merchants and Visa and Mastercard debit card payments have merchant service fees (MSF) that are sometimes passed onto consumers via surcharging practises.

³⁴ Payments NZ “Payments moving to 365 days a year” (15 June 2022, updated 28 November 2022). From 26 May 2023 business day settlement will move to everyday settlement with SBI365, available at: <https://www.paymentsnz.co.nz/resources/articles/payments-moving-365-days-year/>

Table 3.2 Problems with traditional bank transfers

Merchant and consumer <u>problems</u> with bank transfers	
Ability to use	<ul style="list-style-type: none"> • Many merchants offer bank transfers for non-in-person payments, for example, paying invoices or online purchases. • However, while bank transfers could be used for in-person payments, typically merchants do not make this option available as it can be cumbersome, and they do not have the ability to verify authentication in a timely manner.
Costs to use	<ul style="list-style-type: none"> • For merchants a bank transfer is attractive as it does not have a transaction fee, but there are two other indirect costs: <ul style="list-style-type: none"> ○ Time delay in authentication - The merchant, unless physically watching the consumer make the payment, cannot be sure the consumer has made the payment until the money is received. The time taken varies depending on which banks the consumer and the merchant use, this can be either close to instant where the same bank is used or around three to four hours. ○ Reconciliation costs - Reconciliation relies on the consumer including the correct information in the three reference fields of the bank transfer. If this is not done correctly it can take some time for the merchant to allocate the payment to the correct consumer's account.
Ease of use	<ul style="list-style-type: none"> • For a consumer, bank transfers can be a cumbersome payment method as it requires the consumer to input the correct 16-digit account number and has the illusion of the account name needing to be correct. • However, unless the payment is above certain thresholds where manual bank checks are conducted, the account name does nothing to stop money being sent to the wrong account, which can then be challenging to retrieve.³⁵

Questions on the key features of traditional bank transfers

Q6: Do you agree that we have captured the existing benefits and problems with the traditional method of initiating bank transfers? If not, what other benefits or problems exist?

³⁵ Banking Ombudsman Scheme “Mistaken Payments” (July 2021) available at: <https://bankomb.org.nz/guides-and-cases/quick-guides/payment-systems/mistaken-payments/>

Innovative options to make bank transfers

- 3.3 Globally, we have observed the development of innovative options to make bank transfers. This has been predominately where payment providers have efficient access to the interbank payment network so that they can initiate payments on behalf of consumers.
- 3.4 These innovations have typically emerged in countries where open banking or CDR regimes have required banks to provide access to the interbank payment network. However, these access requirements can also be addressed with payment specific regulation.
- 3.5 While this paper focuses on innovations in the options to make bank transfers over the interbank payment network, we also support innovations in the systems in the interbank payment network. This includes the recent move in New Zealand to processing bank transfers 365 days a year and the work on developing real-time payment capability.
- 3.6 System innovations in the interbank payment network can help drive innovations in the options to make bank transfers. Globally we have observed that the open banking and CDR regimes often exist alongside real-time payment capability. This gives payment providers the ability to use real-time payment systems as part of developing innovations in options to make bank transfers. However, in the first instance, this requires payment providers to have efficient access to the interbank payment network, via APIs, which is the key barrier we are seeking to address.
- 3.7 The current technology best placed to enable payment provider access to the interbank payment network to facilitate payment initiation are APIs. An API is a set of routines, protocols and tools for building software applications. An API specifies how two computer applications talk to each other. The API standards are the specifications in which an API is built to.³⁶

³⁶ A good explanation of an API is in this video – “What is an API?” from MuleSoft Videos available at: <https://www.youtube.com/watch?v=s7wmiS2mSXY>

- 3.8 Examples of innovative payment provider solutions in other markets that have been driven by payment-related network access regulations include:
- 3.8.1 India’s Unified Payments Interface, Brazil’s Pix and Thailand’s PromptPay.³⁷ These are all central bank-initiated payment systems that enable innovative options to make bank transfers which are disrupting the existing payment landscape, including the other payment options that allow customers to make payments from their bank accounts.
- 3.8.2 The UK has 45 payment providers offering innovative options to make bank transfers through its open bank regime.³⁸ In Europe there are over 200 payment providers offering innovative options to make bank transfers through its Revised Payment Services Directive (PSD2) open banking regime.³⁹

Potential use cases of innovative options to make bank transfers

- 3.9 These innovative options to make bank transfers are emerging at differing paces around the world, reflective of the context of their retail payment systems and maturity of the different regulatory regimes. This makes it hard to predict where the innovation will evolve to in the New Zealand context.
- 3.10 The uses cases that could be enabled by these innovative options to make bank transfers could address the consumer or merchant problems set out in Table 3.2 or they could provide new functionality to meet consumer preferences. For example:
- 3.10.1 Services that provide consumers the ability to pay a merchant using a QR code, NFC capability of their mobile device or a unique identifier such as a username or phone number.⁴⁰ This could be used in an online or in-person setting. The merchant would receive near real-time notification that the consumer has initiated the payment;
- 3.10.2 Services that reduce the time cost of paying a bill by automatically adding the payment with the correct payment information to the consumer’s online banking as soon as an invoice is sent by the merchant; and/or

³⁷ More information on these is available at: Banco Central Do Brazil “Pix” https://www.bcb.gov.br/en/financialstability/pix_en; at National Payments Corporation of India (NPCI) “Unified Payments Interface (UPI)” <https://www.npci.org.in/what-we-do/upi/product-overview>; and at Bangkok Bank “PromptPay” <https://www.bangkokbank.com/en/Personal/Digital-Banking/PromptPay>

³⁸ Open Banking Limited “The Open Banking Impact Report (March 2023) available at: <https://www.openbanking.org.uk/wp-content/uploads/Open-Banking-Impact-Report-4-30-March-2023.pdf>

³⁹ Mastercard “Q3 2022 Open Banking tracker (23 November 2022) available at: <https://b2b.mastercard.com/news-and-insights/open-banking-tracker/q3-2022/>

⁴⁰ We understand New Zealand does not have QR code standards or non-card scheme standards for NFC capability for bank transfer payments, which may be a barrier to innovation.

3.10.3 Services that check there is sufficient balance in a consumer's account and then transfer or notify the consumer if it is likely that upcoming payments will put them into overdraft.

3.11 While we consider these use cases to be integral to the success of innovative options to make bank transfers, prescribing specific use cases could unnecessarily constrain innovation. It could also position the system to be perpetually playing catch up to keep pace with consumer demand for new use cases.

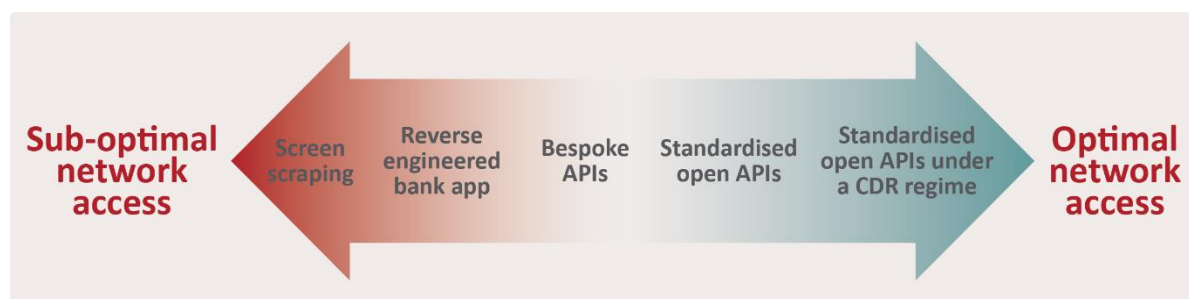
Sub-optimal versus optimal methods to access to the interbank payment network

3.12 Payment provider access to the interbank payment network to enable payment initiation is typically done via APIs which we consider to be the optimal access method. An API is a set of routines, protocols and tools for building software applications. An API specifies how software components should interact.

3.13 There are a range of other access methods that we consider sub-optimal relative to APIs in terms of the effectiveness, functionality, consumer protection and other aspects of the services offered to consumers.

3.14 Figure 3.1 shows where we consider each of these access methods sits on the optimal to sub-optimal continuum. These access methods are discussed below.

Figure 3.1 Optimal to sub-optimal network access methods



Standardised open APIs required under a CDR or open banking regime

3.15 Standardised open APIs can be required under a CDR or open banking regulatory regime. Features of these APIs include:

3.15.1 they provide a secure way for consumers to share their financial data with their chosen payment provider, with the consumers having full control over the data that is shared and with whom;

3.15.2 consumers do not have to provide their username and password to the payment provider;

3.15.3 they provide a consistent way for payment providers to access a consumer's data across multiple banks; and

3.15.4 payment providers often have to be accredited by a regulator before they can access the APIs, but they do not need bilateral agreements with banks to use them.

3.16 There is currently no CDR or open banking regime in New Zealand, however the Government is progressing work to establish a CDR. Australia has a CDR which is being expanded to include payment initiation APIs and the UK open banking has payment initiation APIs.

Standardised open APIs

3.17 Standardised open APIs are APIs that are developed and maintained by a regulatory or industry body, outside of a CDR or open banking regime. They could be incorporated into a CDR or open banking regime, at which point they would move up the access method continuum to the most optimal method. Features of these APIs include:

3.17.1 they provide a consistent and secure way for payment providers to access a consumers' financial data, with the consumer's consent;

3.17.2 consumers do not have to provide their username and password to the payment provider;

3.17.3 they are generally available for use by any payment provider, but may require bilateral agreements between the banks and payment providers; and

3.17.4 they provide a consistent way for payment providers to access a consumer's data across multiple banks.

3.18 An example of standardised open APIs in New Zealand is Payments NZ's API Centre API standards, including the payment initiation API standard. The Bank of New Zealand (BNZ) has built open APIs to this standard.

Bespoke APIs

3.19 Bespoke APIs refer to APIs that are specifically developed by banks for the use of a particular payment provider. Features of these APIs include:

3.19.1 they are negotiated between the bank and the payment provider and are generally protected by agreements to ensure that the data remains private and confidential;

3.19.2 they are considered secure, as the data is accessed using secure protocols and the consumer has control over which data is shared and with whom;

3.19.3 consumers do not have to provide their username and password to the payment provider;

- 3.19.4 they are generally available for use by a limited number of payment providers and are not available for the general public; and
 - 3.19.5 can also be more expensive for payment providers to connect to different APIs with each bank.
- 3.20 An example of a payment provider in New Zealand using bespoke APIs is Worldlines' Online Eftpos solution.

Reverse engineered bank app access

- 3.21 Reverse engineering banking app access refers to the practice of payment providers analysing the way a mobile banking app communicates with a bank's servers in order to understand the underlying API calls and data structure, which they then replicate. Features of this access method include:
- 3.21.1 payment providers can access a consumer's financial data without the need for consent or formal agreements with the bank;
 - 3.21.2 consumers have to provide their username and password to the payment provider, which often will not comply with bank's terms and conditions; and
 - 3.21.3 it introduces the possibility of consumers not receiving redress if there is a fault. For example, there are no requirements on the bank or payment provider to make the consumer whole if there is an issue.
- 3.22 An example of a payment provider in New Zealand using reverse engineered bank app access is Akahu.

Screen scraping

- 3.23 Screen scraping is a method that allows payment providers to access a consumer's financial data by automating scripts that mimic human behaviour to log in to a bank's website and collect the data. Features of this access method include:
- 3.23.1 banks may not prefer this method as it can be less secure than using APIs, can put a strain on the bank's systems and the payment provider does not pay the bank for access.
 - 3.23.2 consumers have to provide their username and password to the payment provider, which often will not comply with banks terms and conditions.
 - 3.23.3 it introduces the possibility of consumers not receiving redress if there is a fault. For example, there are no requirements on the bank or payment provider to make the consumer whole if there is an issue.
- 3.24 Examples of payment providers in New Zealand using screen scraping include PoliPay, Account2Account (Windcave) and Illion.

Sub-optimal network access dominates in New Zealand

- 3.25 As the table highlights, while there are several payment providers that have created innovative options to make bank transfers in New Zealand, these predominately use what we consider to be sub-optimal methods to access the interbank payment network. For example, the widely used POLi and Account2Account both use the screen scraping method to access the interbank payment network and initiate a one-off online payment.⁴¹
- 3.26 Despite the sub-optimal nature of these methods, over 4,000 merchants use these services including the Warehouse, PB Tech, Mighty Ape, Spark, 2degrees, Bunnings, Air New Zealand, Jetstar, Qantas, Auckland Council and Waka Kotahi (NZTA).⁴² In our view, this shows there is a clear demand for new account-to account payment options by merchants.
- 3.27 Besides BNZ and ANZ, no other bank has built open APIs to enable payments, so the payment options that have been developed to use open APIs use a mix of open and bilateral APIs. Worldline’s Online Eftpos product has reached agreements with each of the main banks, and some smaller banks, to access the interbank payment network using a mix of standard and bespoke APIs.⁴³ This product allows for a consumer to pay through their banking app by giving the merchant their phone number and their bank name. The consumer experience differs depending on the bank due to the mix of different APIs and the features enabled on those APIs.
- 3.28 A key issue with the two sub-optimal network access methods is that consumers need to provide a payment provider with login details for their online banking. This is counter to messaging used to help prevent consumers falling victim to scams and is likely in breach of banks terms and conditions. This may reduce consumer protection in the event of fraudulent activity.
- 3.29 In addition, APIs are inherently more secure end-to-end than these sub-optimal network access methods. For example, with screen scraping, the consumer does not have the same degree of control they have with open APIs, where the consumer knows what data they are consenting to be accessed, and consent can be revoked at any time, which is not the case with screen scraping.

⁴¹ More information about these methods can be found here – POLi available at: <https://www.polipay.co.nz/>; Account2Account available at: <https://www.windcave.com/merchant-ecommerce-account2account.html>

⁴² FinTech NZ “New Zealand Fintech Pulsecheck” (2022) available at: <https://fintechnz.org.nz/wp-content/uploads/sites/5/2022/07/New-Zealand-Fintech-Pulsecheck-2022-Discovery-v2.pdf>

⁴³ More information about Worldline’s Online Eftpos available at: <https://www.paymark.co.nz/products/online-eftpos/>

Questions on methods to gain access to the interbank payment network

- Q7:** Do you agree with how we have described and ranked the different methods for payment providers to access the interbank payment network to initiate payments? If not, why?
- Q8:** Are there other key features of the payment initiation network access methods you would like to draw to our attention?

Chapter 4 Opportunities for New Zealand's interbank payment network

Purpose of this chapter

- 4.1 This chapter sets out what we consider are the requirements to enable a more competitive and efficient interbank payment network and the resulting benefits from this environment. We also highlight what we see as the barriers preventing this from developing.

Environment required to support innovation in options to make bank transfers

- 4.2 In our view the best environment to support innovation in options to make bank transfers is one where open APIs are easily accessible to payment providers on fair and reasonable access terms and conditions. This would require:
- 4.2.1 open API standards agreed by industry, which enable a range of bank transfer use cases;
 - 4.2.2 all banks to have built APIs to the agreed open API standards; and
 - 4.2.3 all banks engage with payment providers through an efficient partnering process, including reasonable access terms and conditions which increase certainty for relevant users (for example, standardised pricing methods, common contract terms and an efficient due diligent process that reduces the level of duplication in the current partnering process).

Questions on the environment required to support innovation in options to make bank transfers

- Q9:** Do you agree that these API related requirements are sufficient to enable an environment where payment providers can develop innovative options to make bank transfers? If not, why?

Benefits to merchants and consumers from an open API environment

- 4.3 As discussed above, we consider a designation of the interbank payment network under the Act and the subsequent use of our regulation-making powers will enable an environment where new payment providers can launch innovative new options to make bank transfers.

- 4.4 These innovative options will promote the purpose of section 3 of the Act by delivering long-term benefits to merchants and consumers in New Zealand by addressing the current problems with initiating bank transfers directly with a bank, including:⁴⁴
- 4.4.1 **Ability to use** – consumers should be able to use bank transfers for a greater range of payments, for example in-person payments.
 - 4.4.2 **Costs to use** – merchants should be able to reconcile payments more efficiently and authentication will be sped up, so the indirect costs to merchants from bank transfers will be reduced.
 - 4.4.3 **Ease of use** – the process of initiating bank transfers should be more efficient, by removing the requirement to enter 16-digit bank account numbers, which will reduce the risk to consumers of incorrectly paying the wrong account and increase the speed for the consumer to initiate the payment.
 - 4.4.4 **Consumer protection** – bank transfers initiated using open APIs should comply with banking terms and conditions, so consumer protections in the case of fraudulent activity remain in place.
- 4.5 Creating an alternative low cost, in-person payment option that can apply competitive pressure on the Visa debit and Mastercard debit retail payment network should also deliver long-term benefits to merchants and consumers. This will become increasingly important if Eftpos card use continues to decline.⁴⁵
- 4.6 Cost studies in a number of jurisdictions estimate the social cost of payments to various economies to be between 0.8% and 1.0% of GDP.⁴⁶ We do not have enough information at this stage to estimate the comparable cost to New Zealand.
- 4.7 Some factors of the social cost of payments would be the cost to businesses of accepting payments, the speed in which businesses receive the payment and the time cost of businesses to reconcile payments. New payment options are likely to benefit business on all three of these elements.

⁴⁴ Table 3.1 and Table 3.2 provide further details on the current problems for merchants and consumers.

⁴⁵ Chapter 2 provides further discussion of this topic.

⁴⁶ More information on these studies is available at European Central Bank “The Social and Private Costs of Retail Payment Instruments – A European Perspective” (September 2012) <https://www.ecb.europa.eu/pub/pdf/scpops/ecbocp137.pdf>; Bank of Canada “The Costs of Point-of-Sale Payments in Canada” (March 2017) <https://www.bankofcanada.ca/wp-content/uploads/2017/03/sdp2017-4.pdf>; and on Sweden and Norway at Sveriges Riksbank “Cost of Payments in Sweden” (March 2023) <https://www.riksbank.se/globalassets/media/rapporter/riksbanksstudie/engelska/2023/riksbanksstudie-cost-of-payments-in-sweden.pdf>

Questions on the benefits from a competitive and efficient interbank payment network

Q10: Do you agree with our view of the long-term benefits to merchants and consumers from the development of innovative options to make bank transfers? If not, why?

Barriers to competition and efficiency

- 4.8 In deciding whether to make a recommendation, we are required to consider any features of the retail payment network, or any conduct of participants in the network, that reduce, or are likely to reduce competition or efficiency.⁴⁷
- 4.9 The remainder of this chapter highlights our view that the industry-led approach has not yet delivered an open API environment to support innovation in options to make bank transfers. We also explain the features of the interbank payment network and conduct of participants that have contributed to the slower pace of development.

The development of industry open API standards appear well advanced

- 4.10 The first feature required to enable a competitive and efficient interbank payment network appears to be well advanced. A significant body of work has been delivered by Payment NZ's API Centre and industry on establishing industry open API standards, including a payment initiation API standard and an account information API standard.⁴⁸
- 4.11 We understand that these open API standards are a building block from which further versions will have additional functionality and features. There have been five significant iterations of the API standards to-date, since the first was published in 2019.

⁴⁷ In accordance with section s12(2)(a) of the Act.

⁴⁸ API Centre "Payment Initiation API Standard" available at: <https://www.apicentre.paymentsnz.co.nz/standards/available-standards/payment-initiation-api-standard/>

4.12 The latest version (v2.3) was published in June 2022 and includes enduring payment consent as a mandatory functionality. This is an innovative, enabling feature of these standards in high demand by merchants, which we understand is unique around the world.

Questions on industry open API standards

Q11: Do you consider that the existing industry open API standards are a good starting point to enable innovative options to make bank transfers?

Q12: Do you consider the future of industry open API standards will enable innovative options to make bank transfers?

Q13: What gaps are there in the open API standards for innovative options to make bank transfers?

Not all banks have built open APIs

4.13 In our view, the main barrier to a more competitive and efficient interbank payment network has been that all the banks have not built open APIs. The API provider (banks) readiness in Figures 4.1 to 4.3, highlight that at best only two banks have built APIs to any one version of the open API standards.⁴⁹

Figure 4.1 Payment Initiation API standard v1.0 - ‘production technical’ readiness









Payment Initiation API standard v1.0									
	ASB	ANZ	bnz	The Co-operative Bank	HEARTLAND BANK	Kiwi bank	TSB	W	
Mandatory functionalities	Ready	-	Ready	-	-	-	TBD	-	

Figure 4.2 Payment Initiation API standard v2.0 - ‘production technical’ readiness

Payment Initiation API standard v2.0									
	ASB	ANZ	bnz	The Co-operative Bank	HEARTLAND BANK	Kiwi bank	TSB	W	
Mandatory functionalities	TBD	Ready	-	TBD	TBD	TBD	TBD	TBD	TBD
Decoupled flow	TBD	Ready	-	TBD	TBD	TBD	TBD	TBD	TBD
Enduring payment consent	TBD	-	Ready	TBD	-	TBD	TBD	TBD	TBD

⁴⁹ These figures have all been sourced from the API Centre “API Provider Readiness” (1 February 2023) available at: <https://www.apicentre.paymentsnz.co.nz/standards/available-standards/api-provider-readiness/>

Figure 4.3 Payment Initiation API standard v2.1 - ‘production technical’ readiness

Payment Initiation API standard v2.1 (published December 2020)								
								
Mandatory functionalities	TBD	Q2'23	Ready	TBD	TBD	TBD	TBD	TBD
Decoupled flow	TBD	Q2'23	Ready	TBD	TBD	TBD	TBD	TBD
Enduring payment consent	TBD	-	Ready	TBD	TBD	TBD	TBD	TBD

Regulation to provide access via open APIs

- 4.14 The Government has previously communicated its expectations to the banks about the development of standardised APIs. In 2019 the Minister of Commerce and Consumer Affairs sent an open letter to API providers expressing his concerns on the current pace and scope of progress of API development.⁵⁰
- 4.15 However, without a regulatory requirement for the banks to build the open APIs, we consider that banks have viewed this decision through a commercial lens which has not resulted in the open APIs being built.

Uncertain commercial incentives

- 4.16 For payment providers to develop a viable commercial proposition, they will need open API access at all banks, enabling wider appeal to consumers. If some banks decide not to build open APIs, the success of the payment providers are at risk. Therefore, any potential commercial returns to both parties from an interbank payment network access agreement are at risk.⁵¹
- 4.17 The investment decision for each individual bank to build open APIs relies on making assumptions about whether the other banks will also build open APIs. If one or two large banks do not build open APIs, then there will be less of a commercial return for any of the banks that have built open APIs.
- 4.18 This has resulted in a situation where banks have uncertain incentives to invest in open API development, therefore it appears that most banks are waiting for certainty before committing the investment required to build the open APIs.

⁵⁰ Hon Kris Faafoi, Minister of Commerce and Consumer Affairs “Open letter to API Providers regarding industry progress on API-enabled data sharing and open banking” (December 2019) available at: <https://www.mbie.govt.nz/assets/open-letter-to-api-providers-regarding-industry-progress-on-api-enabled-data-sharing-and-open-banking.pdf>

⁵¹ A UK bank’s research has identified that certain products based on open banking will only be successful if the product reaches a certain scale and critical mass. The research also identifies that coordination in the open banking ecosystem must be improved to create a commercially viable market. See Oxera “The (unmet) potential of Open Banking” (4 July 2023) available at: https://openapi.ulsterbank.co.uk/bankofapis/v1.0/dynamic-content/content/assets/community-articles/Open_Banking_Report_Final.pdf

Payments NZ's open API industry implementation plan

- 4.19 Payment NZ's API Centre has recently looked to address the issue of uncertain commercial incentives by making the banks' decision to build open APIs a matter of compliance. This has been done by establishing an industry implementation plan which is enforceable through the API Centre membership terms and conditions.⁵² It sets minimum dates for the five largest banks to build APIs to version 2.1 of the standards and be ready to partner with payment providers.
- 4.20 The minimum delivery dates for the payment initiation APIs are:
- 4.20.1 **30 May 2024** for ANZ, ASB and Westpac (BNZ have already achieved this); and
 - 4.20.2 **30 May 2026** for Kiwibank.
- 4.21 The minimum delivery dates for the account information APIs are:
- 4.21.1 **30 Nov 2024** for ANZ, ASB, BNZ and Westpac; and
 - 4.21.2 **30 Nov 2026** for Kiwibank.
- 4.22 We support the publication of this industry implementation plan. However, we are unsure if it creates enough certainty that the banks will deliver on the milestones and therefore are concerned that progress will continue to stall. This view reflects that:
- 4.22.1 We have not seen sufficient progress from the banks since Payments NZ launched the API Centre in May 2019. Only one of the five largest banks has built APIs to the version of the standards required in the industry implementation plan (version 2.1), and this version has already been available for over 3 years.
 - 4.22.2 We consider the minimum delivery dates for version 2.1 are not ambitious enough. It is unclear when the latest version of the API standards, with more enabling payments functionality, will be included in the industry implementation plan.
 - 4.22.3 Membership of API Centre is not mandatory for all banks. Several of the smaller banks are not members and it is also feasible that a bank could chose to cease membership in the future. This would remove any obligations to meet the industry implementation plan.

⁵² API Centre "Minimum Open Banking Implementation Plan" (30 May 2023) available at: <https://www.apicentre.paymentsnz.co.nz/standards/implementation/minimum-open-banking-implementation-plan/>

4.22.4 It is unclear how the industry implementation plan will be enforced, including what the consequences are for non-compliance and how progress will be tracked towards these milestones.

Questions on the key barriers preventing efficient access to the interbank payment network

- Q14:** Do you agree that the key barrier preventing payment providers from gaining efficient access to the interbank payment network is that the banks have not universally built open APIs? If not, why?
- Q15:** Do you agree that the main reason the banks have not universally built open APIs is due to the uncertainty of commercial incentives for them to do so? If not, why?
- Q16:** Do you consider that the industry implementation plan creates sufficient certainty that the banks will build the open APIs? And do you consider that the minimum delivery dates are appropriate? If not, why?
- Q17:** Aside from the network access issues, are there other issues with the interbank payment network that reduce competition or efficiency? For example, the speed of payments or amount of information attached to payments?

Industry progress on developing efficient payment provider partnering processes has stalled

- 4.23 We have heard from payment providers that even when banks have built open APIs and are ready for API partnering, the partnering process is not efficient. It can take a significant amount of time, and different banks will have different requirements the payment provider needs to meet.⁵³ This can create a barrier to partnering, which could be overcome by establishing a more standardised, efficient payment provider partnering process.
- 4.24 We understand that some aspects of the API Centre's partnering project have been delivered. This includes developing a centralised due diligence assessment service, developing a proposed state partnering and accreditation framework and developing support information for payment providers obtaining insurance.
- 4.25 However, we understand perceived competition law concerns has limited progress on this partnering project. This includes consideration of how common contract terms and conditions in the API Centre's bilateral agreement template could facilitate more efficient partnering between banks and payment providers.⁵⁴

⁵³ Akahu "BNZ: Open banking APIs are still not available" (29 September 2022) available at: <https://www.akahu.nz/blogs/bnz-apis-not-available>

⁵⁴ Payments NZ – The Point 2022 Payments NZ Conference "Regulatory Fireside Q&A RBNZ and Commerce Commission (November 2022) available at: <https://www.youtube.com/watch?v=sWlbXnhQPjY>

- 4.26 We consider the benefits of collectively developing fair and reasonable API access agreement terms and conditions for banks to partner with payment providers are potentially significant. Therefore, we encourage industry to seek to address its competition law concerns by engaging with us to explore the issue further, including any options available to mitigate these concerns where appropriate.

Questions on efficient partnering between banks and payment providers

- Q18:** What do you consider are the main barriers to negotiating agreements between banks and payment providers for access to the interbank payment network (assuming open APIs are built)?
- Q19:** Does the API Centre's partnering project enable efficient partnering between banks and payment providers? If not, what would be required to enable efficient partnering?

Summary of the barriers preventing innovative options to make bank transfers

- 4.27 Table 4.1 provides a summary of the main barriers that we consider are preventing an environment that enables payment providers to launch innovative options to make bank transfers in New Zealand.

Table 4.1 Summary of barriers preventing innovation

Barriers preventing innovative options to make bank transfers
<ul style="list-style-type: none"> • A lack of transparency on banks intentions to build open APIs. • A lack of progress on banks building open APIs, including the pace of build and the version of the API standards being built. • A lack of progress on agreeing reasonable access terms and conditions for partnering between banks and payment providers, including: <ul style="list-style-type: none"> ○ standardised pricing methods; ○ common contract terms; and ○ efficient due diligent processes.

- 4.28 We consider these barriers result in payment providers not having the confidence, or ability, to develop commercial models that would utilise open APIs. This results in a decision to either delay launching their innovative payment option, or to use a sub-optimal approach, such as screen scraping, as part of their payment option.

Chapter 5 Regulatory powers to promote competition and efficiency

Purpose of this chapter

5.1 This chapter explains how we consider our regulation-making powers under the Act could be used to help overcome the barriers preventing an environment that enables payment providers to launch innovative options to make bank transfers in New Zealand.

Regulatory intervention considerations

5.2 In deciding whether to exercise our powers and functions under the Act we are required to do so for the purpose of the Act. This is to promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand.⁵⁵

5.3 We must also take into account the principles in section 4 of the Act to the extent we consider them relevant:

5.3.1 **Reasonable fees principle** – that merchants and consumers should pay no more than reasonable fees for the supply of payment services. An output of any regulatory intervention would be to increase competitive pressure on other payment options and ensure reasonable fees are charged to merchants and consumers.⁵⁶

5.3.2 **Transparency principle** – that the retail payment system provides a reasonable degree of transparency. An output of any regulatory intervention would be to increase transparency on building open APIs and partnering between payment providers and banks.

5.4 We consider that regulatory intervention could help overcome the barriers we have identified by providing regulatory certainty to payment providers and banks. This will give them more confidence to develop APIs, partner on reasonable terms and invest in commercial models to launch innovative options for bank transfers.

5.5 Before we can use our regulatory powers to regulate aspects of the retail payment system, the retail payment network must first be designated. The remainder of this chapter discusses designations and how our regulatory powers could be used to overcome the barriers we have identified in this paper.

⁵⁵ In accordance with section 3 of the Act 2022.

⁵⁶ Chapter 2 provides further discussion of this topic.

- 5.6 The legislative process for designating a retail payment network and issuing network standards and giving directions about network rules is set out in full in the legal framework included in Attachment A.

Initial retail payment network designations

- 5.7 When the Act came into force it included an initial pricing standard for four initial designated retail payment networks - Mastercard credit, Mastercard debit, Visa credit and Visa debit.⁵⁷
- 5.8 There is some overlap in the participants of the initial designated retail payment networks and the participants of the interbank payment network. The banks are issuers and/or acquires in the Mastercard and Visa debit and credit retail payment networks.
- 5.9 We do not consider that these initial designations for the Mastercard and Visa debit and credit networks could be used to overcome all of the barriers we have identified in the interbank payment network, and only indirectly in some instances.
- 5.10 It could be possible to change the incentives on banks as participants of the interbank payment network by regulating the fees in the Visa and Mastercard debit networks, but aspects such as partnering would be more difficult to influence. Our current view is that we consider that the most appropriate way to provide this regulatory certainty is via a new designation.

Potential designation of the interbank payment network

Network designation

- 5.11 The Act provides for the designation of a retail payment network by the Governor General on the recommendation of the Minister.⁵⁸ The Minister may recommend a network be designated only after receiving a recommendation from the Commission.⁵⁹
- 5.12 The Act sets out that the content of a retail payment network designation order must specify both the network and at least 1 person that is an operator of the network.⁶⁰ The designation order may also specify the payment products in the designated network, documents that set out some or all the network rules and the classes of participants.⁶¹

⁵⁷ In accordance with Schedule 1, Subpart 2 of the Act.

⁵⁸ In accordance with section 10(1) of the Act. This excludes the four initial designated retail payment networks.

⁵⁹ In accordance with section 11(1) of the Act.

⁶⁰ In accordance with section 14(1) of the Act.

⁶¹ In accordance with section 14(2) of the Act.

Interbank payment network definition

- 5.13 We are defining the retail payment network that bank transfers occur over as the interbank payment network. Our focus is on the payments that are initiated by the consumer or merchant over the interbank payment network by sending payment instructions directly to the payer's bank.
- 5.14 Intrabank payments are also captured in this definition, for example when bank transfers are made between two bank accounts at the same bank. The payment products and payment methods in this network include personal and commercial bank transfers. This includes automatic payments, direct credits, bill payments and direct debits.

Network operators

- 5.15 The Act defines a network operator, in relation to a retail payment network, as any person that is or does 1 or more of the following:
- 5.15.1 is wholly or partly responsible to the participants (or any of them) for the network rules; and/or
 - 5.15.2 operates or manages the network or the core infrastructure of the network.⁶²
- 5.16 In the case of the interbank payment network, we consider one of the network operators would be Payments NZ. Payments NZ is responsible for the development and management of the rules and standards that govern the bulk electronic clearing system (**BECS**).
- 5.17 BECS governs how direct debits, automatic payments, bill payments and direct credits work. This includes the timeframes for when settlement and interchange occur, what format the payment information needs to be in, and how any processing or payment issue between banks is resolved.⁶³
- 5.18 We also consider that the BECS participants (primarily banks) could also be considered a network operator of the interbank payment network, or at the least they are network participants. The banks operate or manage core infrastructure of the interbank payment network. This includes the Settlement Before Interchange (**SBI**) system which is used to settle payments and exchange payment information multiple times throughout each business day.⁶⁴

⁶² In accordance with section 7 of the Act.

⁶³ Payments NZ "Bulk electronic clearing system" available at: <https://www.paymentsnz.co.nz/our-work/our-payment-systems/bulk-electronic-clearing-system/>

⁶⁴ Payments NZ "Settlement before interchange" available at: <https://www.paymentsnz.co.nz/our-work/our-payment-systems/settlement-before-interchange/>

Classes of participants

- 5.19 The Act defines a participant, in relation to a retail payment network, as a person that is a network operator or any other service provider.⁶⁵ The Act also allow for a designation order to specify classes of participant.⁶⁶
- 5.20 In the case of the interbank payment network, we consider that classes of participants could include:
- 5.20.1 network operators – as discussed above;
 - 5.20.2 the direct participants, the registered banks in New Zealand that are BECS participants;⁶⁷ and
 - 5.20.3 the indirect participants, including:
 - 5.20.3.1 the registered banks in New Zealand and licensed non-bank deposit takers that do not have direct access to BECS.⁶⁸
 - 5.20.3.2 the payment providers that offer payment initiation services for consumers and merchants.

Network rules

- 5.21 The Act defines network rules as rules that set out the following:
- 5.21.1 how the network is to be constituted (for example, as a set of arrangements between its participants or as a legal person with whom its participants are to interact);
 - 5.21.2 how activities on the network are to be carried out;
 - 5.21.3 the rights and obligations under the network of its operators and participants.
- 5.22 Existing documents that set out network rules may be specified in a network designation order (e.g., documents referred to by description or name).⁶⁹

⁶⁵ In accordance with section 7 of the Act.

⁶⁶ In accordance with section 14(2)(c) of the Act.

⁶⁷ RBNZ “Registered banks in New Zealand (last modified 16 March 2023) available at: <https://www.rbnz.govt.nz/regulation-and-supervision/cross-sector-oversight/registers-of-entities-we-regulate/registered-banks-in-new-zealand>

⁶⁸ RBNZ “Register of non-bank deposit takers in New Zealand” (last modified 30 June 2023) available at: <https://www.rbnz.govt.nz/regulation-and-supervision/cross-sector-oversight/registers-of-entities-we-regulate/register-of-non-bank-deposit-takers-in-new-zealand>

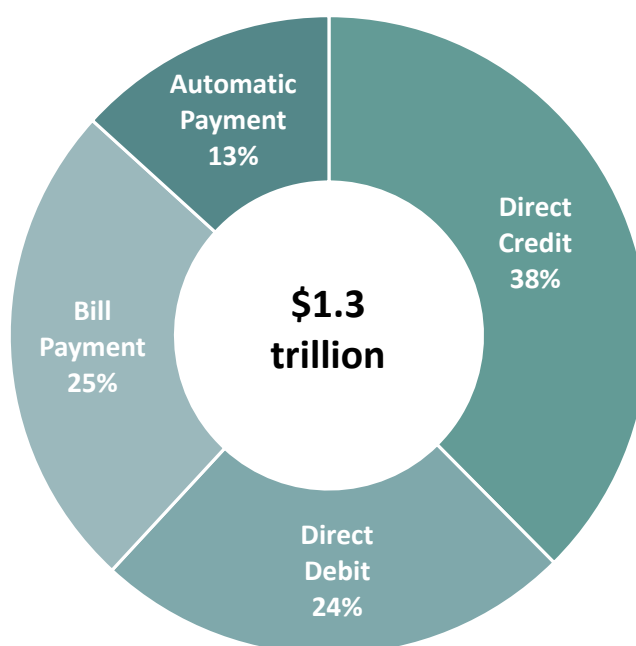
⁶⁹ In accordance with section 14(2)(b) of the Act.

- 5.23 There are likely a wide range of interbank payment network rules that would include the BECS rules, the SBI rules and the rules which relate to the payment methods, so would include aspects of the API Centre work.

Nature of the interbank payment network

- 5.24 In deciding whether to make a network designation recommendation, we must take into account the nature of the network, including the number, value, and nature of the transactions that the network currently processes or is likely to process in the future.⁷⁰
- 5.25 The interbank payment network is widely used for payments in New Zealand. The value of bank transfers settled on the SBI system in 2020 was \$1.3 trillion.⁷¹ Figure 5.1 shows how this \$1.3 trillion was split across the different types of bank transfers.

Figure 5.1 Bank Transfers Settled on the SBI System in 2020



- 5.26 This \$1.3 trillion figure underestimates the total value of bank transfers made in 2020 given the SBI system excludes intrabank payments - payments between two customers at the same bank.
- 5.27 We expect the interbank payment network to continue to be widely used for payments in the future. This is due to the reliance on bank transfers for such a wide range of common payments, such as wages, invoices, dividends, ongoing mortgage and rent payments, rates, insurance, telephone and power bills.

⁷⁰ In accordance with section 12(2)(b) of the Act.

⁷¹ Figure derived from Payments NZ "New Zealand payments stats – 2020 in review" (24 June 2021) available at: <https://www.paymentsnz.co.nz/resources/articles/new-zealand-payments-stats-2020-in-review/>

Financial Markets Infrastructures Act 2021 and other regulatory requirements

5.28 The Act sets out that:

5.28.1 In deciding whether to recommend that a network is designated, we are required to take into account the Financial Market Infrastructures Act 2023 (**FMI Act**) and any other regulatory requirements in other New Zealand laws that we consider relevant.⁷²

5.28.2 Before making a network designation recommendation under section 12, we must consult with the Reserve Bank of New Zealand (**RBNZ**) if the network comprises any part of a system that is a designated Financial Market Infrastructures (**FMI**) with the meaning of the FMI Act.⁷³

5.29 We have engaged with the RBNZ as part of the development of this paper as we consider there is potential overlap between the FMI Act and our proposed designation of the interbank payment network. This is based on elements of the interbank payment network being in scope for potential designation under both the FMI Act and the Act and because there are similar powers, to oversee network rules and set standards for access and disclosure available under both regimes.

5.30 There are currently five FMIs designated under the Banking (Prudential Supervision) Act 1989 that will need to be re-designated under the FMI Act.⁷⁴ However, these do not include the Payments NZ systems. These five re-designations will be completed by 1 March 2024 when all remaining provisions of the FMI Act come into force.

5.31 Beyond the five currently designated FMIs, the International Monetary Fund's (**IMF**) analysis has indicated that some of Payments NZ systems are systemically important, including the SBI system which is part of the interbank payment network.⁷⁵ The RBNZ intends to assess whether these systems are systemically important and should therefore be designated under the FMI Act.

⁷² In accordance with section 12(2)(c) of the Act.

⁷³ In accordance with section 13(1)(a) of the Act.

⁷⁴ RBNZ "Register of designated settlement systems in New Zealand" (last modified 28 February 2022) available at: <https://www.rbnz.govt.nz/regulation-and-supervision/cross-sector-oversight/registers-of-entities-we-regulate/register-of-designated-settlement-systems-in-new-zealand>

⁷⁵ International Monetary Fund "New Zealand Financial System Stability Assessment" (8 May 2017) p15-16 available at: <https://www.imf.org/en/Publications/CR/Issues/2017/05/08/New-Zealand-Financial-Sector-Assessment-Program-Financial-System-Stability-Assessment-44886>

- 5.32 Given the SBI system is not one of the five designated FMIs, we do not consider the section 12 requirement to consult with the RBNZ before making a network designation recommendation is met. We however continue to work closely with the RBNZ as our two regulatory regimes move forward to manage potential overlaps. This is to support our shared objective of avoiding unnecessary compliance costs while also aiming to fulfil the statutory purposes of our respective regimes.
- 5.33 We have not identified any other regulatory requirements in other New Zealand laws that we consider relevant for a recommendation to designate the interbank payment network.

Questions on the interbank payment network

- Q20:** Do you agree with how we have defined the interbank payment network? If not, how do you consider it should be defined?
- Q21:** Do you see any issues with how we have defined the interbank payment network? If so, what issues?
- Q22:** Do you agree we have captured the correct payment products in the interbank payment network?
- Q23:** Do you agree we have captured the correct network operators of the interbank payment network?
- Q24:** Do you agree we have captured the correct class of participants in the interbank payment network?
- Q25:** Do you agree we have identified the relevant interbank payment network rules? If not, what other network rules are relevant?
- Q26:** Do you consider there are any other regulatory requirements in other New Zealand laws that we should take into account in deciding whether to recommend that the interbank payment network is designated?

Regulatory action following designation

Possible regulatory action once there is a designation

- 5.34 If the interbank payment network is designated under s 10 of the Act, the Commission may:
- 5.34.1 issue network standards for the designated network;⁷⁶ and
 - 5.34.2 give directions about network rules.⁷⁷

⁷⁶ In accordance with section 17 of the Act.

⁷⁷ In accordance with section 24 of the Act.

5.35 Table 5.1 shows the regulatory powers that are available to us for a designated retail payment network and examples of how those powers might be used to address the barriers raised in this paper.

Table 5.1 Possible uses of our regulatory powers

Regulatory power	Possible use to address barriers in this paper
Commission may issue network standards	
Standards on information disclosure⁷⁸	<p>These powers could be used to require the banks to provide certain information to other merchants, consumers, the Commission, and/or the public.</p> <p>The disclosure could create incentives on the banks to deliver on commitments made in the industry implementation plan by highlighting underperformance, or it could create more certainty to payment providers that progress is being made. This could require the banks to disclose or publish:</p> <ul style="list-style-type: none"> • Information on what APIs are being built • Information on payment provider partnering • Implementation plans, milestones and progress • Information on payment provider agreements • Information on the use of APIs for payments
Standards on pricing principles and limits on fees⁷⁹	<p>These powers could be used to set pricing principles or to limit the fees for API access. This could create incentives for payment providers to partner with banks and use APIs as the method of initiating bank transfers.</p> <p>It could also incentivise investment and innovation in APIs and the take up of innovative options to make bank transfers by consumers and businesses.</p> <p>For example, the UK’s open banking regime has five high-level principles that industry needs to use to agree commercial models for premium APIs that are sustainable, safe and scalable.⁸⁰ Fees and charges should:</p> <ul style="list-style-type: none"> • broadly reflect relevant long-run costs of providing premium APIs • incentivise investment and innovation in premium APIs • incentivise take-up of open banking by consumers and businesses and use of network effects

⁷⁸ In accordance with section 20(1)(a) of the Act.

⁷⁹ In accordance with section 20(1)(b)(i) of the Act.

⁸⁰ Joint Regulatory Oversight Committee “Principles for commercial frameworks for premium APIs” (26 June 2023) available at: www.psr.org.uk/media/w13hqtex/jroc-principles-for-commercial-frameworks-for-premium-apis-june-2023.pdf

	<ul style="list-style-type: none"> • treat payment providers fairly • be transparent
Standards on pricing method requirements ⁸¹	<p>These powers could be used to ensure that all API access is charged using the same pricing methodology to make it easier for payment providers to enter into agreements with banks and to support the development of commercial models. For example, this could require that API access is charged by all banks:</p> <ul style="list-style-type: none"> • on a fixed price per API call basis; or • on a percent of payment value basis.
Standards on access requirements ⁸²	<p>These powers could be used to establish how banks provide payment providers with access to the interbank payment network, for example:</p> <ul style="list-style-type: none"> • require banks to provide access via open APIs in accordance with certain access terms; • prohibit the use of screen scraping as a means of accessing the interbank payment network; or • require reasonable access for partnering between banks and payment providers, such as common terms and conditions for partnering and due diligence requirements.
Commission may give directions about network rules	
Setting, or amending network rules ⁸³	<p>These powers could direct participants of a designated network to set or amend network rules that could assist with partnering between banks and payment providers.</p> <p>We indicated in Chapter 3 that there are likely a wide range of interbank payment network rules, including the BECS rules, the SBI rules and the rules which relate to membership of the API Centre. Some of these rules could potentially be amended to help address the barriers identified in this paper.</p>

⁸¹ In accordance with section 20 (1)(b)(ii) of the Act.

⁸² In accordance with section s 20 (1)(c) of the Act.

⁸³ In accordance with section 24 of the Act.

Questions on possible regulatory interventions

- Q27:** Do you consider that a designation of the interbank payment network is a useful first step towards enabling an environment where payment providers can launch innovative new options to make bank transfers in New Zealand? If not, why?
- Q28:** How effective do you consider our regulatory powers would be at addressing the barriers set out in this paper?
- Q29:** Do you consider that a designation of the interbank payment network, and the subsequent use of our regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand? If not, why?

Chapter 6 Possible next steps

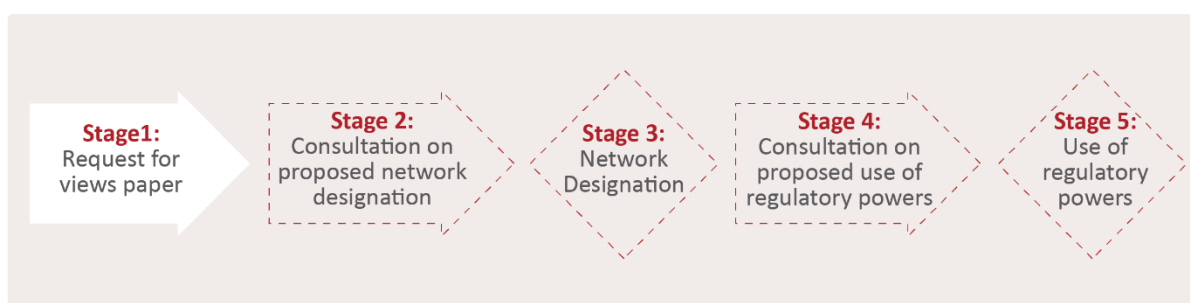
Purpose of this chapter

6.1 This chapter provides the possible next steps for our payments between bank accounts workstream following the consultation process of this paper.

Overview of the public consultation and next steps

6.2 This request for views paper represents the first of (at least) three consultation stages that we would undertake if we decided to pursue regulation of the interbank payment network. An overview of the potential stages is provided below and illustrated in Figure 6.1.⁸⁴

Figure 6.1 Our possible next steps



6.3 **Stage 1** – Request for views paper (this paper):

6.3.1 This stage seeks feedback from stakeholders to build on our understanding of the interbank payment network, including testing our view that barriers exist that are reducing the competition and efficiency of the network, and the regulatory solutions that could reduce these barriers.

6.3.2 This will help inform our decision on whether to proceed with recommending a designation of the interbank payment network.

6.4 **Stage 2** – Consultation on a draft network designation recommendation and reasons paper:

6.4.1 This stage will provide an opportunity for stakeholders to submit on the draft designation and reasons paper in accordance with the requirements of the Act.

6.5 **Stage 3** – Network designation (subject to the requirements of the Act).

⁸⁴ Attachment A – Legal Framework includes the legislative process for each of these stages.

6.6 **Stage 4** – Consultation on draft network standards or rule directions and reasons paper:

6.6.1 This stage will provide an opportunity for stakeholders to submit on draft network standards and/or draft network rule directions in accordance with the requirements of the Act.

6.7 **Stage 5** – Issue network standards or directions about network rules.

We welcome your feedback

6.8 We welcome your feedback on this paper and have provided a template in Attachment B to support written submissions. We also welcome requests to meet to discuss any aspects of this paper and we are also open to conducting facilitated feedback sessions with stakeholder groups. Please contact us if you think either of these alternative engagement options would be beneficial.

Attachment A Legal Framework

Purpose of this attachment

A1 This attachment provides a summary of the purposes and principles of the Act and our key functions and powers under the Act that relate to the discussion in this paper.

Purpose of the Act

A2 The Act provides the Commission with a range of functions and powers. The Act provides that these functions and powers must be exercised for the purpose of promoting competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand.⁸⁵

Principles

A3 In the exercise of these functions and powers the following principles need to be considered by the Commission to the extent that the Commission considers them relevant:⁸⁶

A3.1 merchants and consumers should pay no more than reasonable fees for the supply of payment services; and

A3.2 the retail payment system provides a reasonable degree of transparency.

Functions

A4 Section 6 of the Act provides a non-exhaustive list of the functions conveyed to the Commission. The core function and powers are:

A4.1 market monitoring and information dissemination;

A4.2 regulation-making; and

A4.3 investigating, compliance monitoring and enforcement.

A5 It is also the Commission's function to co-operate with and assist other law enforcement or regulatory agencies that carry out a role in relation to the retail payment system.

Regulation-making

A6 The Commission's regulation-making function is made up of the following elements:

A6.1 recommending a network is designated;

⁸⁵ In accordance with section 4(1) of the Act.

⁸⁶ In accordance with section 4(2) of the Act.

A6.2 regulation of the designated network(s) through network standards and/or directions; and

A6.3 regulating merchant conduct through merchant surcharging standards.

Recommendation for a network designation

A7 The Commission may recommend to the Minister that a retail payment network be designated.⁸⁷ The Minister in turn may recommend to the Governor-General that the retail payment network be designated.⁸⁸ It is for the Governor-General to, on the recommendation of the Minister, make an Order in Council declaring a retail payment network to be a designated network.⁸⁹

A8 In making a recommendation for designation, certain steps that must be taken. The Commission must:

A8.1 Consult with the Reserve Bank of New Zealand (RBNZ) if the network comprises any part of a system that is a designated FMI within the meaning of the Financial Market Infrastructures Act 2021.

A8.2 Consult affected operators of the network about the proposed designation. This consultation should include the reasons for making this decision.

A8.3 Make the recommendation publicly available as soon as it is practicable after the recommendation has been made, including a statement of reasons for that decision.

A9 A designation order must specify both a network and at least 1 person that is an operator of the network.⁹⁰ In addition, a designation order may specify 1 or more of:⁹¹

A9.1 the payment products in the designated network;

A9.2 documents that set out some or all the network rules; or

A9.3 classes of participants.

Powers

A10 In most instances, designation is the preliminary step before the Commission can use its powers to regulate a retail payment network.

⁸⁷ In accordance with section 12(1) of the Act.

⁸⁸ In accordance with section 11(1) of the Act.

⁸⁹ In accordance with section 10(1) of the Act.

⁹⁰ In accordance with section 14(1) of the Act.

⁹¹ In accordance with section 14(2) of the Act.

Network Standards

- A11 The Commission may issue a range of standards to regulate the network:
- A11.1 Information Disclosure standards, requiring the disclosure of information relating to payment services or the designated network. This includes requiring information is provided by participants to merchants, consumers, the Commission, or the public, or even by one class of participants to another class.⁹²
 - A11.2 Pricing Standards for payment services. This includes determining pricing principles, limits on fees and pricing methodology requirements.⁹³
 - A11.3 Access standards for various aspects of the designated network. This includes how a person may become part of the network, and how a participant may be required to provide access to other participants.⁹⁴
- A12 In terms of the process for issuing a network standard, the Commission is required to first make the proposed standard publicly available and consult affected persons about the proposed standard.⁹⁵
- A13 Those consulted can also be persons that the Commission considers to be representative of those affected persons. Once a network standard is issued the Commission must make publicly available both the standard and the reasons for issuing the standard.⁹⁶
- A14 These standards can be enforced by the Commission. Those who are found to have breached the standards can be liable for a pecuniary penalty under subpart 3 of Part 3.

Network Rules

- A15 Once a network is designated the Commission also has the power to, through a direction to 1 or more of the participants in a designated network to take specific action in accordance with that direction.⁹⁷ This direction is described as a direction notice by the Act and must also state the reasons for which the direction is given.⁹⁸
- A16 These directions can require 1 or more participants in the network to take 1 or more of the following actions:⁹⁹

⁹² In accordance with section 20(1)(a) of the Act.

⁹³ In accordance with section 20(1)(b) of the Act.

⁹⁴ In accordance with section 20(1)(c) of the Act.

⁹⁵ In accordance with section 19 of the Act.

⁹⁶ In accordance with section 19(2) of the Act.

⁹⁷ In accordance with section 24(1) of the Act.

⁹⁸ In accordance with section 24(4) of the Act.

⁹⁹ In accordance with section 24(2) of the Act.

- A16.1 set network rules;
 - A16.2 amend network rules;
 - A16.3 notify the Commission about any amendments to be made to the network rules; or
 - A16.4 apply for and obtain the Commission's approval before making amendments that are of the type identified in the direction notice as substantive amendments.
- A17 A key consideration mandated by the Act when the Commission is proposing to issue a direction notice is whether there are any features of the retail payment network or conduct of participants in the network that reduces or are likely to reduce competition or efficiency.¹⁰⁰ This relates back to the purpose of the Act described at section 3.
- A18 As with network standards, if the Commission seeks to give a direction setting or amending rules, the Commission must make the proposed direction publicly available and consult affected persons about the proposed direction.¹⁰¹ Once the direction is given, the Commission is also required to make the direction and the reasons for giving the direction publicly available.¹⁰²

¹⁰⁰ In accordance with section 25 of the Act.

¹⁰¹ In accordance with section 26(1) of the Act.

¹⁰² In accordance with section 26(2) of the Act.

Attachment B Submission Response Template

Purpose of this attachment

- B1 This attachment provides details on how to make submissions on this paper and the confidentially considerations. It also provides the full list of submission questions and a template to assist with written submissions.

Submissions

- B2 We are seeking your feedback on our views and questions raised in this paper, or on any other aspects of the payments between bank accounts landscape that you consider important. Your feedback will help inform whether we start the process of recommending the interbank payment network for designation.
- B3 In addition to written submissions using the process set out in this attachment, we also welcome requests to meet to discuss any aspects of this paper and we are also open to conducting facilitated feedback sessions with stakeholder groups. Please contact us if you think either of these alternative engagement options would be beneficial.
- B4 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.
- B5 While we will accept a range of formats our preference is for submitters to use the template. A word version of this template has been published alongside this paper and can be found [here](#).
- B6 Responses can be emailed to retailpaymentsystem@comcom.govt.nz with 'Interbank payment network request for views paper' in the subject line.
- B7 To ensure your feedback can be considered, please provide these to us by 4pm 25 September 2023.

Confidentiality

- B8 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.
- B9 Where your submission includes confidential information, we request that you provide us with both 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 rests on the party providing the submission.

- B10 Where confidential information is included in submissions:
- B10.1 the information should be clearly marked and highlighted in yellow; and
 - B10.2 both confidential and public versions of submissions should be provided by the due date.
- B11 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:
- B11.1 release would unreasonably prejudice the commercial position of the supplier or subject of the information;
 - B11.2 withholding the information is necessary to protect the privacy of natural persons; and
 - B11.3 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.
- B12 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.
- B13 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.
- B14 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.
- B15 Table B1 provides the full list of our submission questions.

Table B1 Full list of our submission questions

Questions on New Zealand's payments between bank accounts landscape	
1	Do you agree that Eftpos card use is likely to continue to decline? If not, why not?
2	Do you agree with our assessment of the factors contributing to the decline in Eftpos card use? If not, why not?
3	What do you see as the barriers to innovation and success for Eftpos?
4	Do you agree with our view that the decline in Eftpos card use is reducing the competitive pressure on the debit card networks for in-person payments and that this may have a detrimental impact on consumers and merchants over time? If not, why not?
5	Do you agree with our view that competitive pressure in the payments between bank accounts landscape could be increased by enabling an environment where payment providers develop innovative options to make bank transfers? If not, why not?
Questions on the key features of traditional bank transfers	
6	Do you agree that we have captured the existing benefits and problems with the traditional method of initiating bank transfers? If not, what other benefits or problems exist?
Questions on methods to gain access to the interbank payment network	
7	Do you agree with how we have described and ranked the different methods for payment providers to access the interbank payment network to initiate payments? If not, why?
8	Are there other key features of the payment initiation network access methods you would like to draw to our attention?
Questions on the environment required to support innovation in options to make bank transfers	
9	Do you agree that these API related requirements are sufficient to enable an environment where payment providers can develop innovative options to make bank transfers? If not, why?
Questions on the benefits from a more competitive and efficient interbank payment network	
10	Do you agree with our view of the long-term benefits to merchants and consumers from the development of innovative options to make bank transfers? If not, why?
Questions on industry open API standards	
11	Do you consider that the existing industry open API standards are a good starting point to enable innovative options to make bank transfers?
12	Do you consider the future of industry open API standards will enable innovative options to make bank transfers?

13	What gaps are there in the open API standards for innovative options to make bank transfers?
Questions on the key barriers preventing efficient access to the interbank payment network	
14	Do you agree that the key barrier preventing payment providers from gaining efficient access to the interbank payment network is that the banks have not universally built open APIs? If not, why?
15	Do you agree that the main reason the banks have not universally built open APIs is due to the uncertainty of commercial incentives for them to do so? If not, why?
16	Do you consider that the industry implementation plan creates sufficient certainty that the banks will build the open APIs? And do you consider that the minimum delivery dates are appropriate? If not, why?
17	Aside from the network access issues, are there other issues with the interbank payment network that reduce competition or efficiency? For example, the speed of payments or amount of information attached to payments?
Questions on efficient partnering between banks and payment providers	
18	What do you consider are the main barriers to negotiating agreements between banks and payment providers for access to the interbank payment network (assuming open APIs are built)?
19	Does the API Centre's partnering project enable efficient partnering between banks and payment providers? If not, what would be required to enable efficient partnering?
Questions on the interbank payment network	
20	Do you agree with how we have defined the interbank payment network? If not, how do you consider it should be defined?
21	Do you see any issues with how we have defined the interbank payment network? If so, what issues?
22	Do you agree we have captured the correct payment products in the interbank payment network?
23	Do you agree we have captured the correct network operators of the interbank payment network?
24	Do you agree we have captured the correct class of participants in the interbank payment network?
25	Do you agree we have identified the relevant interbank payment network rules? If not, what other network rules are relevant?
26	Do you consider there are any other regulatory requirements in other New Zealand laws that we should take into account in deciding whether to recommend that the interbank payment network is designated?

Questions on possible regulatory interventions

27	Do you consider that a designation of the interbank payment network is a useful first step towards enabling an environment where payment providers can launch innovative new options to make bank transfers in New Zealand? If not, why?
28	How effective do you consider our regulatory powers would be at addressing the barriers set out in this paper?
29	Do you consider that a designation of the interbank payment network, and the subsequent use of our regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand? If not, why?

Attachment C Broader Retail Payment System landscape

Purpose of this attachment

C1 This attachment shows the broader retail payment system landscape to illustrate where the focus of this paper fits into the retail payment system.

Understanding the broader landscape

- C2 This paper is focussed on the “payments between bank accounts” subset of the broader retail payment system landscape which is shown in Figure C1.
- C3 Credit payments are not considered to be a payment between bank accounts. This is because the money transferred does not come directly from the payee’s bank account, but rather it is borrowed from the bank or another credit provider.
- C4 Non-bank account payments are also not considered to be a payment between bank accounts. This is because the money or value transferred does not come directly from the payee’s bank account.

Figure C1 Broader retail payment system landscape

