



## COVERSHEET

<b>Minister</b>	Hon Dr David Clark	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of Cabinet paper</b>	Retail payments system: initial policy decisions to reduce merchant service fees	<b>Date to be published</b>	12 May 2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
14 April 2021	Retail payments system: initial policy decisions to reduce merchant service fees	Office of the Minister of Commerce and Consumer Affairs
14 April 2021	Appendix 1: Background on card payments and the retail payments system	Office of the Minister of Commerce and Consumer Affairs
14 April 2021	DEV-21-MIN-0075 Cabinet Economic Development Committee: Minute of Decision: Retail Payments System: Initial Policy Decisions to Reduce Merchant Service Fees	Cabinet Office
30 March 2021	Regulatory impact statement: Regulating the retail payments system	MBIE

### Information redacted

**YES / NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of Confidential advice to Government.



# Cabinet Economic Development Committee

## Minute of Decision

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### Retail Payments System: Initial Policy Decisions to Reduce Merchant Service Fees

Portfolio                      Commerce and Consumer Affairs

On 14 April 2021, the Cabinet Economic Development Committee (DEV):

#### Background

- 1        **noted** that in November 2020, in the Speech from the Throne, the government committed to regulate the merchant service fee payable on debit and credit card transactions to reduce costs on retailers and the resulting costs on consumers;
- 2        **noted** that on 7 December 2020, Cabinet agreed to the release of an issues paper on proposed options to regulate merchant service fees, and invited the Minister of Commerce and Consumer Affairs to report back in April 2021 on the outcome of the consultation [CAB-20-MIN-0510];
- 3        **noted** that high merchant service fees are having inequitable impacts on some businesses and consumers;
- 4        **noted** that high merchant service fees is a symptom of inefficient competition and consumer preferences for high-cost payment products that offer rewards and inducements;

#### The regulatory regime

- 5        **agreed** that regulatory intervention is required to reduce the adverse impacts of high merchant service fees resulting from the economic inefficiencies in the retail payments system, specifically card products;
- 6        **agreed** that the proposed Retail Payments System Bill (the Bill) will introduce a regime to regulate (on a case by case basis) classes of retail payments system participants, their providers, and any associated infrastructure operators (including secondary infrastructures) that meet the prescribed thresholds;
- 7        **agreed** that the overall objective of the regime be to ensure the retail payments system delivers long term benefits to merchants and consumers;
- 8        **agreed** that the regime be broadly scoped to potentially apply to any retail payment method (excluding cash) that is important to merchants and consumers;

- 9 **agreed** that, in doing so, the regime will aim to:
- 9.1 enable efficient competition between payment providers and payment products;
  - 9.2 incentivise beneficial innovation for consumers and merchants;
  - 9.3 be efficient in allocating resources through clear price signals, where prices are cost reflective for the system as a whole;
  - 9.4 be fair in its distribution of costs, particularly in its treatment of small merchants and low income domestic consumers;
- 10 **agreed** that the regime should adopt a designation model to provide flexibility and future-proof regulation;
- 11 **noted** that the proposed process and relevant factors for designation are secondary policy issues that require further consultation with stakeholders and the regulator;

### Regulatory responsibility

- 12 **agreed** that the Commerce Commission be empowered as the regulator for the new regulatory regime;
- 13 **noted** that there will need to be coordination between the various regulators of payment systems, and that this will be considered in the design of the legislation;
- 14 **noted** that more detailed institutional arrangements are secondary policy issues that require further policy work and engagement with the relevant agencies with regulatory responsibility for the retail payments system;

### Regulatory tools

- 15 **agreed** that the Bill include a transitional price path, that will be in place until the regulator makes a determination to alter the limits, which will:
- 15.1 set a requirement for Visa and Mastercard to reduce the caps for interchange fees for credit cards to 0.80 percent (being the same cap as currently applies in Australia) within six months of the Bill being enacted;
  - 15.2 set a requirement for Visa and Mastercard to reduce the caps for interchange fees for debit cards to 0.60 percent within six months of the Bill being enacted;
  - 15.3 set a requirement to cap interchange fees that are currently at or lower than the prescribed levels at their 1 April 2021 levels to prevent these fees from increasing;
  - 15.4 set a requirement that any new Visa or Mastercard credit card product types must have an interchange fee of 0.80 percent or less;
  - 15.5 set a requirement that any new Visa or Mastercard contactless in person debit product types have an interchange fee of 0.00 percent;
  - 15.6 set a requirement that any new Visa or Mastercard contactless in person debit product types have an interchange fee of 0.20 percent or less;
  - 15.7 set a requirement that any new Visa or Mastercard online debit product types have an interchange fee of 0.60 percent or less;

- 15.8 provide a power for the regulator to seek documents and monitor compliance with the requirements;
- 15.9 prescribe an offence or penalty for breach of the requirements set out in paragraphs 15.1 – 15.7 above and for failing to provide documents requested by the regulator;
- 16 **noted** that the Minister of Commerce and Consumer Affairs will write to acquirers to seek voluntary actions to pass on interchange fee reductions to merchants;
- 17 **agreed** that the Bill empower the regulator to impose pricing principles or limits on fees (or components of fees) on designated participants or classes of participants in the retail payments system;
- 18 **agreed in principle**, subject to targeted consultation and the report-back referred to in paragraph 25 below, that the Bill empower the regulator (in relation to designated payment systems) to:
- 18.1 introduce information disclosure requirements to improve transparency of fees;
- 18.2 have the power to make directions requiring designated parties to amend their rules or processes (such as rules relating to surcharging or steering by merchants);
- 18.3 enter into enforceable undertakings as an alternative to regulation or to remedy non-compliance;
- 19 **noted** that the proposed set of tools broadly reflects the approach taken in Australia;
- 20 **noted** that targeted consultation will seek feedback on these and any additional tools that may be required to avoid the unintended consequences that have arisen in other jurisdictions;

### Financial implications

21 Confidential advice to Government

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### Legislative implications

23 **noted** that the proposals will be given effect through the Retail Payments System Bill, for Confidential advice to Government

### Additional matters

- 24 **noted** that targeted consultation will be undertaken on a range of secondary policy issues, including:
- 24.1 the criteria and process for designation to be included in legislation;
- 24.2 institutional arrangements for coordination between the various regulators of payment systems;
- 24.3 the nature and scope of the tools available to the regulator;

24.4 an enforcement regime;

24.5 commencement dates;

24.6 any additional matters that may be required to ensure an effective regulatory regime, such as any additional tools that should be available to the regulator to future-proof the regime;

25 **invited** the Minister of Commerce and Consumer Affairs to report back to DEV in Confidential advice to Government Confidential ac on the secondary policy issues outlined above, following targeted consultation.

Janine Harvey  
Committee Secretary

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**Present:**

Hon Dr Megan Woods (Chair)  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Poto Williams  
Hon Stuart Nash  
Hon Michael Wood  
Hon Dr David Clark  
Hon Phil Twyford  
Rino Tirikatene, MP  
Dr Deborah Russell, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV

**Hard-copy distribution:**

Minister of Commerce and Consumer Affairs