



Hospitality New Zealand

TO MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

SUBMISSION ON

REGULATING TO REDUCE MERCHANT SERVICE FEES

19 FEBRUARY 2021

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About Hospitality New Zealand:

1. Hospitality New Zealand (“Hospitality NZ”) is a member-led, not-for-profit organisation representing approximately 3,000 businesses, including cafés, restaurants, bars, nightclubs, commercial accommodation, country hotels and off-licences.
2. Hospitality NZ has a 119-year history of advocating on behalf of the hospitality and tourism sector and is led by Chief Executive Julie White. We have a team of seven Regional Managers located around the country, and a National Office in Wellington to service our members.
3. Hospitality NZ has a Board of Management, made up of elected members from across the sectors of the industry, and an Accommodation Advisory Council, made up of elected members from the accommodation sector.
4. We also have 18 local Branches covering the entire country, representing at a local level all those member businesses which are located within the region. Any current financial member of Hospitality NZ is automatically a member of the local Branch.
5. This submission relates to the “Regulating to reduce Merchant Service Fees” Issues Paper.
6. Enquiries relating to this submission should be referred to Sam MacKinnon, Senior Policy Advisor, at [REDACTED] or [REDACTED]

Overview:

7. Hospitality New Zealand welcomes the opportunity to comment on the issues paper.
8. Our membership consists primarily of small and medium businesses, conducting high-volume, low-value transactions. From a transactions perspective, hospitality operators are beholden to the fees and costs of card providers and have almost no control over the cards they accept, given consumers demand access to the functions of such cards.
9. This work covers key elements of costs incurred by high volume transaction sectors such as ours. Importantly, it has identified the ‘network effect’ which means the normal competition within the market will not bring the costs of accepting payments down, and conversely has led to them increasing.
10. Over a period of years consumers in New Zealand have been incentivised by banks and card schemes away from (mostly) free EFTPOS cards to credit and debit cards that have additional functions, or benefits, but that have much higher costs. The costs of these cards are invisible to the consumers and it is businesses that are forced to carry these costs.
11. The paper also accurately notes the complexity of merchant service fees and the difficulty merchants have in understanding and controlling the fee level that they are charged. There are large discrepancies between what different businesses pay and very little transparency.

12. Overall, we understand that the card schemes report average interchange fees to MBIE, but there is no public disclosure. This information is not available to merchants at large, or the general public. Additionally, the information provided to MBIE relates to weighted average interchange - it does not include acquiring fees. This means that it does not show the average fees paid by merchants - and is not useful for benchmarking purposes.
13. COVID-19 has also resulted in a large increase in online or phone transactions, where payments are made without a card present. These services have an even higher merchant service fee due to the additional security measures that are provided to protect these transactions.
14. This signifies further changes in the way consumers behave, and is an indicator of the fast-moving environment in which these regulatory changes are being made. It is important that this work is as forward thinking as possible.

Specific Comments:

15. This is an issue that presents a significant challenge to our members. Given many are single site businesses, they lack the power to negotiate with banks around better merchant service fee terms. We have responded to specific questions in the issues paper that we feel we can contribute to meaningfully. For any technical responses, we endorse the comments of Retail NZ in their submission.
16. *Please provide information on your understanding of the levels of merchant service fees in New Zealand, any trends in relation to those fees, and how they compare to merchant service fees in overseas jurisdictions.*
17. Our understanding is that while fees may be mostly nominal for the cardholders themselves, the perceived benefits of rewards programmes and other incentives drive consumers to use higher cost cards – much of that cost is then carried by the business itself.
18. We note Retail NZ’s research in this space, identifying that “fees [in New Zealand] are 2-3 times more expensive for credit and contactless debit than fees in markets like Australia and the UK.”
19. Their research also noted that “maximum rates for credit remain over 2 per cent for many retailers, and over 3 per cent for ecommerce transactions. Many retailers remain on blended rates over 1.6 per cents for all transactions (including contactless debit) which is banks have otherwise voluntarily limited to 0.7 per cent. We continue to pay very high merchant service fees in New Zealand despite voluntary measures over the past 3-4 years.”
20. What has resulted is a power imbalance which disadvantages small business and often the consumer. From the perspective of our membership, government intervention is needed to reduce the effects of ongoing merchant service fee terms currently being dictated by the card providers.

21. *What is your view on charges incurred by cardholders for the use of payment methods?*

22. Fees charged to cardholders are nominal and while some cardholders are aware of fees involved, it doesn't deter them from using such forms of payment.

23. *What impacts do you believe rewards and inducements have on the retail payments system?*

24. In line with the above, the rewards and inducements are designed to attract cardholders to a particular scheme – despite higher fees, most consumers are not deterred from these schemes where there is a perceived added value or reward. These cards of course attract higher merchant fees.

25. Because consumers are being incentivised to use their cards more often to attract the attached rewards, these cards are used more frequently. These costs are being absorbed by the operator or all customers are subsidising the additional costs of transactions on behalf of a few customers. This is a fundamental issue of fairness within the retail payments system.

26. *What is your view on charges incurred by merchants for the use (acceptance) of payment methods?*

27. In a low-value, high-volume transaction business like hospitality, sales are imperative, and operators are not in a position to reject mainstream forms of payment, regardless of the costs they incur. As cash is being used less frequently (and even EFTPOS to some extent), and the use of more convenient (and expensive) payment types like Apple Pay are on the rise, the uneven application of fees across card payments is being left to the merchant to cover.

28. Hospitality is a consumer-led sector and as such is beholden to schemes and cards offered by banking institutions. Given much of the industry consists of small, single site businesses, their leverage in negotiation for competitive merchant service fees is diminished. Additionally, businesses can struggle for a benchmark to check they are being fairly charged due to a lack of transparency around merchant service fees.

29. *Please provide your views on barriers to merchants steering consumers to lower cost payment methods and the extent that steering occurs?*

30. In a high-volume transaction environment, it is unrealistic to expect staff to distinguish card types at point of sale. Furthermore, it is impractical to then expect staff to request that EFTPOS or debit cards are used in place of credit cards (for example) to reduce fees to the merchant.

31. Cardholders are increasingly resistant to hospitality venues that do not accept contactless payments. Uptake has reached such a level that steering away from contactless is becoming difficult.

32. Please provide your views on the barriers to merchants surcharging and the extent that surcharging occurs?

33. Consumers are increasingly resistant to surcharging. Even additional costs on public holidays, while understood, cause frustration, and given the inconsistency of which operators apply surcharges, many venues choose to forgo surcharging for fear of driving away customers.

34. In a card fee sense, customers are resistant to surcharging as they do not understand the costs of accepting payments to hospitality venues. The surcharge is seen as unnecessary or too high and creates a negative impression. It is also difficult to accurately gauge the correct level of surcharge that a hospitality venue can apply if it is on an unbundled rate.

35. What barriers do small businesses face to obtaining competitive merchant service fees?

36. Most small operators simply do not have the ability or the resources to obtain competitive merchant service fees. Small business owners are required to carry many roles within their business and often do not have the time to undertake such involved exercises even if they benefit the business in the long run. Their negotiating leverage and understanding of a complex system impacts their ability to get better terms.

37. Do you agree that there is a gap in regulatory governance of the retail payments system relating to promoting competition and outcomes that are in the long-term benefits of end-users?

38. Yes.

39. We echo the sentiments of Retail NZ: "Payments NZ has retained a strict focus on maintaining the technical elements of the payments system, and its co-ownership by the banks means it is not well placed to scrutinise fee levels. RBNZ has to date taken a hands-off approach to the payments system. The Commerce Commission is only able to investigate breaches on the Commerce Act, and MBIE has a policy focus."

40. Therefore, there has been no agency with a clear mandate to oversee over the efficiency of the payments system in New Zealand; and as a result, payments fees are higher than many other similar jurisdictions.

41. Do you agree with the objectives of the retail payments system in New Zealand?

42. Yes.

43. Please provide feedback on which body or bodies would be best placed to act as the regulator for interchange fee regulation.

44. As with Retail NZ, we would support either a new independent government body, or a separate unit within the Reserve Bank (or alternatively MBIE or the Commerce Commission) be the

regulator of interchange fees. It is essential that the new body can act independently and be open to review. The new body should include representation from a range of stakeholder groups, including large and small hospitality operators at the governance level.

45. Please provide your views on the impacts of the above classes of options, with supporting evidence of the benefits and costs.

46. Alongside hard caps on interchange fees, we endorse Retail NZ's call for government to legislate to require banks to publish the fee that they charge merchants. Without this only one portion of the merchant fee is regulated, and a significant level of confusion will remain about how the actual fees that hospitality venues are charged are comprised and set.

47. Collective bargaining could have advantages for small hospitality venues, but is not an effective substitute for regulation. We support expanding collective bargaining alongside the proposed introduction of hard caps interchange and acquiring fees, and compulsory disclosure of bank fees.

48. Please provide your views on any other feasible options that should be considered, with supporting evidence of the benefits and costs of these options.

49. As with Retail NZ, we support the additional options proposed. However, the key first step should be the introduction of hard interchange caps and compulsory disclosure of bank fees. Likely these will bring costs down and may result in some of the secondary issue being resolved (such as limiting rewards schemes, or the need for additional surcharging and steering rules).

Conclusion:

50. We thank the Ministry of Business Innovation and Employment for the opportunity to provide input into the consultation.

51. We look forward to the next stage of the project when we understand a full assessment of the options for regulations will be carried out. However, now that the decision to regulate has been made we urge haste and welcome any opportunities to work with Government or its agencies to advance this project.

52. We would be happy to discuss any parts of this submission in more detail, and to provide any assistance that may be required.