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Committee Secretariat
Economic Development, Science and Innovation Committee
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By email: edsi@parliament.govt.nz

MTA feedback on the Retail Payment System Bill

Introduction

The Motor Trade Association (Inc) (MTA) was founded in 1917 and in 2017 celebrated 100 years of trust with the NZ motoring community. MTA represents over 3,800 businesses within the New Zealand automotive industry and its allied services. Our Members operate businesses including automotive repairers (general and specialist, heavy and light vehicle), collision repairers, service stations, vehicle importers and distributors and vehicle sales. The automotive industry employs approximately 60,000 New Zealanders and contributes around \$3.5 billion to the New Zealand economy.

Many MTA members are small businesses, employing a few staff and with few resources to allow them to research, review, and negotiate the myriad fees and charges facing them in operating their businesses. The fees charged for transacting business with customers using credit cards and other deferred payments are especially perplexing and costly.

There is widespread reluctance to pass on card transaction costs to customers in the form of surcharges for fear of losing those customers. There is also a general lack of understanding about what the fee is for –

- is it for the convenience of the customer to pay the retailer with deferred payment terms to the credit card/issuing bank?
- is it a fee for the retailer to enable them to transact with all customers?

In reality, the card fees provide a benefit to both retailer and consumer; however, the consumer already pays annual card fees and the retailer pays the transaction fees (which, as we noted, benefits both). **Consumers need to better understand the total cost of each transaction.**

MTA position

In 2016, MTA submitted on that year's *MBIE Issues Paper 'Retail Payment Systems in New Zealand'*. More recently, in February 2021, we called for greater transparency and oversight of merchant service fees. The proposed Bill is a step in the right direction.

MTA welcomes the proposed Retail Payment System Bill ('the Bill') and supports the proposed reduction and cap of interchange fees and regulation of the retail payments system.

Credit cards play a crucial role for business and consumers. Consumers should know what they are getting, and they should pay for what they get. Credit cards provide short term loans to enable consumers to purchase many kinds of products and services supplied by many kinds of retailers.

Consumers with credit cards are willing to pay fees to card issuers for this convenience.

A retailer improves the quality of its service when it accepts credit cards. The quality improvement is enabling customers to choose their method of payment (such as a credit card instead of cash). The retailer will usually accommodate this extra quality with a higher price for the goods and services. This covers its costs, including the merchant service fees (MSFs) it pays to its own bank.

The Select Committee should ensure the Bill produces a balanced outcome for both retailers and consumers.

MTA supports the establishment of the Commerce Commission as regulator for the retail payment system. However, we believe that there should be an engagement mechanism which includes a role for consumers, retailers, and institutions to work together with the regulator to ensure fairness and efficiency.

There are significant developments in the broader retail payments regulatory environment, including in the areas of Consumer Data Right and Buy-Now, Pay-Later schemes. The Government must ensure that the Bill is consistent and fits in with the broader environment. MTA recommends the legislation is reviewed in 5 years to ensure it remains fit for purpose and aligned with its aim and purpose.

Interchange fees

MTA believes the level of interchange fees needs to be amended to be fair to consumers and retailers. The initial pricing standard for each designated network can be found in Schedule 1 Subpart 3 of the Bill.

The proposed fees place Aotearoa more in step with comparable jurisdictions such as Australia and the United Kingdom.

In recent years, consumer ease, convenience and COVID-19 restrictions, has led to a strong shift to contactless payments, including contactless card payments and virtual wallets such as Apple and Google Pay. These forms of payments lead to an increase in costs to retailers offering the service. This means smaller retailers not able to offer alternative contactless payments are disproportionately affected by this shift. MTA notes that a number of New Zealand banks had waived contactless ‘Paywave’ transaction fees to eligible SMEs during initial periods of lockdown, however, these are only temporary measures that provide little certainty during a period of overwhelming uncertainty.

Foreign-issued and commercial cards

The Bill in its current form excludes foreign issued and commercial cards from the pricing standards.

When Australia introduced similar interchange regulations, foreign-issued cards were also excluded from the scope. American Express took advantage of situation which led to adverse effects.

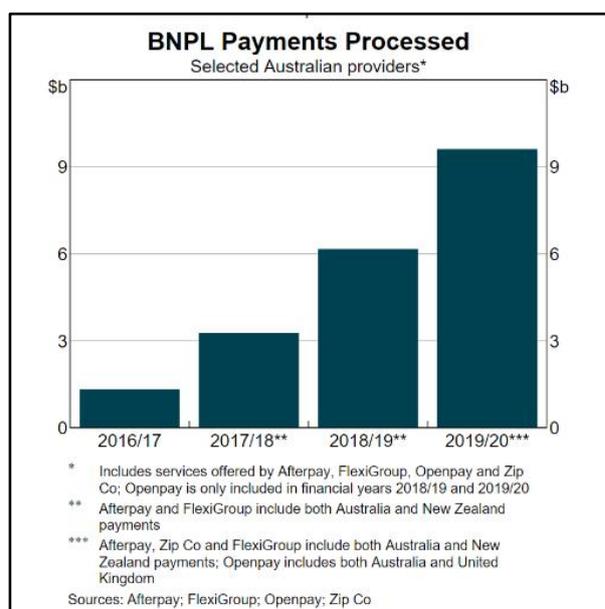
Similarly, Australia has since decided to set a ceiling for commercial cards.

New Zealand must look to Australia and learn from their experience.¹

Buy-Now, Pay-Later schemes

MTA is aware MBIE is currently consulting on the Buy-Now, Pay-Later (BNPL) sector and MTA will be making a submission. However, we do believe there is significant overlap in this area and BNPL schemes must be acknowledged in the Bill which aims to regulate retail payment systems.

BNPL firms commonly prevent retailers from adding a surcharge on transactions when customers take up this payment option. The BNPL sector is growing rapidly, the Reserve Bank of Australia (RBA) is currently reviewing the surcharge ban imposed on retailers as part of their Review of Retail Payments Regulation. The table highlights the growth seen in



¹ Reserve Bank of Australia ‘Review of Card Payments Regulation: Conclusions Paper’ May 2016 (<https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/pdf/review-of-card-payments-regulation-conclusions-paper-2016-05.pdf>)

Australia in recent years.² Afterpay, FlexiGroup, and Zip all conduct trade in Australia and New Zealand.

Under current settings, BNPL firms are not captured by the Credit Contracts and Consumer Finance Act 2003. As such, BNPL firms are left largely unregulated and with no obligation to comply with responsible lending laws.

MTA recommends Government include the BNPL sector under the Bill and remove the surcharge ban BNPL impose on retailers.

Regulations

The Regulations related to the Bill have not yet been issued. As such, this submission has been drafted based on the information available at the time of writing.

MTA recommends Government undertakes further consultation when drafting Regulations so that impacted parties are able to provide feedback.

Overall, MTA supports the aim of the Bill and the need for regulation in this area. However more needs to be done to protect retailers and consumers from being at the mercy of card issuers and BNPL firms.

Thank you for the opportunity to provide comment on Retail Payment System Bill.

Yours sincerely,



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² <https://www.rba.gov.au/publications/bulletin/2021/mar/developments-in-the-buy-now-pay-later-market.html>