

REVIEW OF CARD PAYMENTS REGULATION (MARCH 2015)

Payvision's views on a balanced interchange framework

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2. PURPOSE

The purpose of this document is to provide the Reserve Bank of Australia (hereinafter, RBA) with Payvision B.V.'s feedback on the Issues Paper published in March 2015 regarding a potential review of the Card Payments Regulation.

During the past decade, Payvision has developed a specialist Payment Service Provider suite of products in the card-not-present payment services industry and it is now expanding fast in the card-present environment through innovative mobile payments and innovative mPOS¹ solutions. As a result, acquiring banks and other financial and non-financial institutions have increasingly relied on outsourcing card-payment related services to Payvision. As a payment provider certified by the leading Card Schemes such as Visa, MasterCard, American Express, JCB, and China UnionPay, Payvision can offer secure payment processing solutions globally.

In 2011 Payvision was granted by the Dutch Central Bank (DNB) a Payment Institution ('PI') license² under the European Union (EU) *Payment Services Directive* ('PSD')³. The PSD provides a system of licenses under EU law for PIs, such as those organizations providing payment services which are not licensed banks. The PSD determines the European standard under which PIs have to operate as well as a framework for central banks to supervise such institutions. In Q1 2012, as a result of receiving the PI license, Payvision also became a principal acquiring member of Visa Europe and Mastercard Worldwide; and was then invited to sit and participate on a number of industry panels and working groups managed by the Card Schemes and other European stakeholders. In Q3 2014, Union Pay International has granted Payvision the UnionPay Online Payment Acquirer license ("UPOP"), which allows Payvision to operate in the European Union, the United States and Japan. The UPOP license could be further extended to Australia once Payvision gains access to serve as an acquirer there. Furthermore, on 1 October, 2014, Payvision officially became a member of the Japan Consumer Credit Association ("JCA"). This mirrors Payvision's commitment to be a sound player in the Japanese payments industry.

Payvision operates globally with offices located in The Netherlands (HQ), Spain, France, Germany, the UK, the USA, Singapore, Hong Kong, Macau, Japan, and New Zealand.

¹ Mobile Point of Sales which enables a merchant to accept face-to-face payment through EMV (chip&PIN or chip&signature), magstripe & signature, and contactless technology.

²http://www.dnb.nl/en/binaries/The%20Register%20of%20Payment%20Institutions_tcm47-228691.pdf

³ *Directive 2007/64/EC on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.*



3. PAYVISION'S VIEWS ON THE PROPOSED REVIEW

Payvision welcomes the initiative by RBA to keep opening up the Australian market to global trends that increase overall competition and consumer protection, so that electronic payments are really fostered. Most of the proposals (such as the one that suggests allowing smaller merchants to group together to negotiate receiving lower interchange rates) make business sense and are praise worthy.

Nonetheless, we think that on addressing a framework review with such an impact on the industry and on consumers, there are several risks worth mentioning.

3.1. Surcharging

Surcharging might be a double edge sword for the industry, so it should be handled with care for it not to be excessive or to have unintended consequences.

To start with, surcharging might be an unfriendly consumer experience. Consumers might perceive they "pay for paying". It also has the potential to mislead such customers on the true price of the goods and services they purchase. Moreover, even Consumer Associations at a European level (BEUC, *The European Consumer Organization*) advocate against it and state that some merchants use surcharges to get some extra profit from people paying by card. So if the proposed reform has consumer protection as one of its foundations, surcharges should be limited to the minimum extent necessary to balance the merchant's and consumer's protection. And always sticking as accurately as possible to the costs borne by merchants for the acceptance of specific card payments.

On another note, surcharging can also be misleading and difficult to implement by merchants, as it is not always easy for their employees to distinguish price regulated from non-price regulated transactions. This selective surcharging might be inefficient and increase merchant's compliance costs (as they will have to invest in employees' training). On the other hand it would be somewhat difficult to police and enforce individual's merchant's compliance.

Finally to a certain extent surcharging might end up promoting cash over card payments, potentially fostering anonymity and therefore increasing money laundering risks.



3.2. Transparency and simplicity

Transparency is always welcome for all the stakeholders within the value chain. To promote a fair implementation of any changes in this direction, care should be taken so that all the necessary details are clear on origin for acquirers and acquiring PSPs to be able to share them transparently with the rest of the chain without incurring in excessive implementation costs.

On another note, as done in other jurisdictions cited as an example of similar regulatory reforms, not all the new requirements should apply to all transaction types (in the European Union the Interchange Fee Regulation certain requirements –e.g. ban on surcharging– won't apply to those transactions/payment instruments which fees are already capped). Any such reform should at least go along these lines. And this set up will add complexity for consumers and merchants. Therefore, efforts should be made so that transparency strikes a balance with simplicity, for the new framework not to impact customer experience more than necessary, and become a conversion killer.

3.3. Debit Vs credit

As the approach to debit products is way different than that of the credit ones in this regard, a sensible methodology to differentiate them should be established. A common trend for doing this currently is mainly based on settlement timeframes (above or below 48 hours). And this extent alone does not clarify whether the card used is a credit or a debit instrument, as there are several scenarios where the debit transactions are settled later than 48 hours (this is the case, for instance, of offline-authorized transactions or transactions processed during weekends).

3.4. Merchant indifference test

In the same way the merchant indifference test, as a methodology to calculate the fee caps, might be validly applicable for debit (as debit cardholders are provided with cash they have got at the moment they purchase), although it might not be appropriate for credit, as in that case the cardholders are being provided with cash they do not necessarily have at the moment they purchase.



3.5. Regulating with a holistic, flexible and risk based approach

Another potential risk of regulating these matters is not to adjust the potential requirements laid out to the different conditions/features of the varied services or products within scope. For instance, digital wallets –like Paypal or other alternative payment methods- are not the same as the e-wallets issued by a 4 party scheme (and in many cases they serve clients from these 4 party schemes). This should be taken care of in order not to regulate products/services already in scope, as this may tackle innovation and limit the availability of cheaper and more efficient payment services, from which consumers can benefit.

3.6. Regulatory efficiency

Implementing a regulation like this one will most likely require a complex and expensive regulatory process. In Europe it will at least require further development, monitoring and enforcement from supervisory and regulatory authorities at a European and local level, who will have to apply Level 2 measures and issue implementation guidelines and recommendations. And not less importantly, this requires policing and enforcing the requirements laid down in the final framework with budget limitations that are the norm in these times of global crisis. Therefore, any regulatory proposal should be mindful of this when measuring the feasibility of any steps brought forward.



4. CONCLUSION

In Payvision we are in favour of increasing competition and consumer protection. As a global SME we believe that, at this stage, there's plenty of space in the payments environment for more market entries. A number of local markets are under served due to a small amount of players covering all the demand for efficient and cheap payments. This leads to inefficiencies and to less consumer choice and protection, with expensive and less innovative products. We support the idea of prioritizing competition and widening access for smaller players, so that the industry as a whole may render more innovative services in a cost-effective and transparent manner. This will in the end benefit consumers, in terms of convenience (smooth payment experience) and pricing (lower final prices).

However, it is paramount that the above-mentioned risks are addressed with the utmost care as otherwise the proposed measures might be counterproductive, and end up weakening the position of consumers and/or smaller players (merchants, acquirers, PSPs), who might pay the price of the future change in the rules of the game (with increased retail prices or more barriers to market entry, respectively).