

CARD-PAYMENT SURCHARGING

While I am happy to include in this submission a soft endorsement of a voluntary code limiting merchant surcharges on card-payment transactions it has been difficult to sustain a temperate tone in responding to the RBA's call for comments. About appropriate payments system pricing policies, the RBA might first look to itself for allowing banks, and their card scheme associates, to bask for far too long in the predictable consequences of a far too-benign regulatory regime.

Ranking policy priorities

In anticipation of anything like wider regulation, the RBA, in association with the ACCC and ASIC as needed, might like to first restrain Cabcharge's longstanding 10% surcharging-rort. Next steps could be considered in the light of progress in addressing that standing affront to the community. The point of this proviso is an implicit suggestion that if something could be done to restrain Cabcharge, it would already have been done – presumably there is room for semantic games, describing even ad-valorum levies on card payments as something other than a surcharge.

Similar issues about policy priorities and fair play can be illustrated both by the practice of some insurance companies charging very obviously excessive fees for taking low-cost, monthly direct-entry payments in lieu of single annual premiums. And that ignores the regulatory licence long allowing banks to impose excessive penalty-fees for customers making minor account management mistakes.

Fairly called, the beam in the eye of the regulatory pretenders is more evident than the mote in the eyes of merchants.

The concession to a surcharging code foreshadowed, I was taken aback that the RBA, the appointed payments system regulator, would seek to limit merchants recovering more than reasonable transaction costs while having been reluctant, for the past decade and evermore, to apply to banks anything approaching appropriate disciplines precluding them acting, cartel-like, when setting prices for transaction account and related transaction service facilities that bear no proper relationship to costs.

One can see this RBA initiative, to cap surcharges, as unfortunately consistent with the long-standing inclination of the RBA to stay its regulatory hand on retail payments reform at the banking level: present payments system policy settings unfairly cosset the easy revenues flowing to banks from a raft of established cartel-like behaviours clearly contrary to the broader public interest. The related idea, floated in the discussion paper, that the very card scheme operators, long seen as exploiting the community, might assume some auxiliary private regulatory role to limit surcharges, is, frankly, unacceptable -- even floating it reflects adversely on the RBA. As well, given the inexplicable renegeing, twice, on RBA 'promises' to abolish, or further reduce, permissible interchange fees on credit card transactions, proposals to limit merchant surcharges smacks again of acceding to the preferences of participating banks and card-scheme promoters.

The priority for reforming retail payments arrangements, frankly, remains with the protected behaviour of banks acting uniformly not the opportunistic behaviour of a few retailing monopolies which is probably beyond reach of payments regulators or anyone else. The claimed 'surcharging' concerns of the RBA, including dulling price-signals guiding consumers choices between payment instruments, flies in the face of the RBA's more apparent determination to preclude the community ever getting the efficiency benefits of properly user-pays pricing arrangements.

A decade or more on from the RBA getting formal responsibility for payments system efficiency, the community is still deceived into thinking it is fair for banks to overprice low-cost payments facilities to retailers while other high-cost transaction facilities are ‘sensibly’ made available to customers substantially free of charge -- and that banks should provide ‘free banking’ to recipients of social security benefits rather than tender for a subsidy to cover the cost of doing so.

A code to limit merchant surcharging?

The classification of surcharging behaviour between ‘reasonable’ and ‘excessive’ is probably a task best left to some representative group of retailers: the development of a code to manage surcharging behaviour may require the recognition of a retailer body – with provision for it to hear complaints and name retailers choosing to ignore the code. That said, it is perhaps expecting too much for some representative retailer group to discipline major national businesses wielding substantial monopoly power in much the same cartel-like way that banks and their card-scheme associates do.

More generally, it seems overly zealous for the RBA to protest blended-rate surcharges when it is the card schemes that many would consider opportunistic in playing games with fee-caps to discriminate between classes of cardholders and retailers. On another matter, higher surcharges for online sales, the consultation paper did not seem to recognise adequately retailers’ very real residual risks with card-not-present transactions – a risk that could presumably be reduced if the card scheme promoters developed more secure communication protocols. Similarly there was some flavour of distinguishing ‘interchange fees’ from retailers ‘total costs’ of card transactions – but thankfully, yet, no sign of following the EU down the road of allowing card fees to compensate for retailers cash-handling cost savings.

There are presumably more general defences of ‘excessive’ surcharging practices founded in tactical price discrimination for which the use of a card identifies targeted market segments.

END PIECE -- BOTH BARRELS

For my money, if the RBA were genuinely concerned to promote fairness and efficiency in the provision and pricing of retail transaction facilities it would be more determined, and not at all reluctant, to follow through on two regulatory steps it sometimes alludes to as desirable but, in the event, always falters and does not.

First, any problems with merchants surcharging card transactions would become of little consequence if the RBA proscribed interchange fees for all card transactions, as it once promised to do, and banks recovered the costs of card transactions directly from customers using cards: why are retailers left in the position of charging bank customers for overpriced bankcard transactions?

Second, the plain absence of any practical respect shown by the RBA for the proper user-pays pricing of retail payment facilities makes a mockery of its recurrent pious recanting of the importance of a properly functioning price system for retail payments as well as everything else. The RBA has stood silent for decades while the inefficient and unfair tax-free bartering of interest free deposits for free banking services has undermined the proper functioning of the retail payments system to say nothing of precluding anything like a competitive environment in retail banking more generally.