

19th January 2012

Christopher Kent
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
Sydney NSW 2001

Dear Chris,

This letter is in response to the Reserve Bank's consultation document of December 2011 regarding a proposed variation to the surcharging standards.

The Australian Merchant Payments Forum (AMPF) wishes to again express its opposition to placing a cap on surcharging, for all the reasons described in our submission of 20 July 2011. However, should the Bank proceed with implementing a cap, we believe Option 3 to be the preferred option, subject to some clarification, as this most closely matches the Bank's original and on-going intention for the surcharging Standards to allow merchants to recover their cost of card acceptance and provide the correct price signals to consumers.

Under Option 3, the bank has recommended that the card schemes be allowed to implement rules to limit surcharges to a reasonable cost of acceptance of cards of that scheme. However, there is no indication in the consultation document as to whether the schemes would have any role in the execution of the proposed rules.

The AMPF is strongly opposed to the schemes playing any active role at all in investigating whether any merchant has engaged in "excessive" surcharging. At the very least, the schemes would face a conflict of interest in being an arbiter of what constitutes excessive surcharging. The schemes have been consistently opposed to surcharging and therefore could be expected to try to push down surcharge levels on their own cards as far as possible. The schemes are certainly not an independent judge.

Further, the schemes have no direct relationship with merchants and have no idea of what any merchant's Merchant Service Fee (MSF), nor indeed any other costs associated with card acceptance, might be. The MSF is commercial in confidence between the merchant and its acquirer and the schemes should not have any access to individual MSF data under any circumstance.

The AMPF believes a number of issues must be resolved and consequent modifications made to the Draft Standards prior to their introduction. For example, who will have responsibility for initiating a review? Who decides that the surcharge may be excessive and warrants investigation?

Once a review has been activated, who operates the review and evaluates the reasonableness of the surcharge level? It would be entirely inappropriate for either an acquirer or a card scheme to have access to a merchant's costs associated with card acceptance, just as it would be inappropriate for a merchant to have access to an individual acquirer's or scheme's cost structure. If this were to happen, any future negotiations on MSFs or other contractual arrangements would be severely compromised as one party would have complete insight into the other party's costs without the reverse being true.

In many cases there would be significant work involved for merchants in gathering and collating the data. For large merchants this could involve costs related to MSFs, card terminal/PIN pad purchase and maintenance, consumables, terminal software and hardware upgrades, POS EFT software licenses and management, switch purchase and operating costs, communications costs, staff and help desk costs, and so on. This also raises the question as to who determines which costs can be included and/or excluded in any review. Who determines how much data is required, who has access to it and in what timeframe the data must be provided? To whom would the data be provided? What course is open to a merchant who believes an investigation is frivolous?

Finally, who makes the final decision on whether the surcharge is excessive? If a surcharge is determined to be excessive, who sets the cap for that merchant? And what is the appeal or review process if a merchant disagrees with the outcome?

The AMPF believes it is crucial that these issues be resolved before implementing any new Standard.

Honour All Cards Rule

As part of the revised standards for surcharging, the Reserve Bank is proposing to amend "*The 'Honour All Cards' Rule in the Visa Debit and Visa Credit Card Systems and the 'No Surcharge' Rule in the Visa Debit System*" as per Attachment 2 of the consultation document. If this Standard is to be amended, then it should reflect all three types of Visa cards - credit, debit and prepaid (sometimes called "gift") cards. Currently, prepaid cards, which are experiencing very strong growth in Australia, are not mentioned in the Standard, but we strongly believe these should be specifically addressed in the Standard.

Just as merchants should not be compelled to accept Visa debit cards if they accept Visa credit, and vice versa, the same should apply with prepaid cards. Many merchants issue their own gift cards and should not be obliged to accept Visa prepaid cards simply because they accept Visa debit cards.

The requirements for transparency which apply to debit cards should also apply to prepaid cards, such that all Visa prepaid cards issued in Australia should be issued with a Bank Identification Number (BIN) that allows them to be electronically identified as Visa prepaid cards and this information must be made available to merchants on request. The cards should also be visually identified as Visa prepaid cards.

We would expect the same conditions to apply to MasterCard debit and prepaid cards.

We would be happy to discuss our views via a teleconference if you would like. If you have any queries or need any further information please contact me.

Yours sincerely,



Russell Zimmerman
Chairman
Australian Merchant Payments Forum