



American Express Submission in Response to the Financial System Inquiry Interim Report

August 2014

Table of Contents

Executive Summary	3
Section 1 – Policies Underpinning Interchange Reform.....	4
Level Playing Field or Entrenched Duopoly?	4
Effective Competition and Innovation in the Concentrated Australian Payments Market.....	5
Payment Networks are not a Commodity	5
Section 2 – Interchange Reform: Why American Express Companion Cards ought not to be Interchange Regulated	8
American Express Companion Cards are not a Proxy Four-Party Scheme	9
Section 3 – Interchange Reform: Compliance will aid Transparency.....	9
1. Gaming the System: Obscuring the price paid by merchants.....	10
2. Gaming the System: Timing of compliance with the interchange standard	11
Section 4: Surcharging.....	12
Appendix.....	15

Executive Summary

1. American Express has prepared this paper in response to the Financial System Inquiry Interim Report (the report) on the state and possible future direction of Australia's financial system. While the Inquiry has considered a broad range of issues in its report, American Express' comments are limited to the current state and future of the Australian payments industry.
2. Due to the tendentious nature of the submissions received, the report's preliminary findings about the payments industry are limited to a selective assessment of aspects of the reform of payment cards by the Reserve Bank of Australia's Payment System Board (PSB) since 2002, with no broader consideration of the reasons that caused the RBA to act at that time.
3. There is also an unstated but heavily implied position that the payments industry in Australia is little beyond a commodity service without differentiated value and that all participants in the payment system are functionally equivalent in economic terms. All the focus is on the supply side of the market without any reference or consideration to market demand. This narrow focus fails to acknowledge that card payments operate in a two-sided market in which competition occurs on both sides: for consumers on the one hand and merchants on the other. Fostering innovation and vigorous competition for both sets of customers is important for healthy competition in the marketplace overall.
4. American Express does not support price regulation, which risks unintended consequences that benefit the dominant players at the expense of the smaller players. However, so long as regulators are committed to maintain interchange regulation in place, American Express would support the following policy options:
 - a. Niche industry players, including American Express, should not be targeted or captured by a regulatory instrument aimed to correct and adjust the cartel-like behaviours of the still dominant card schemes. Constraining the ability of American Express and other industry players without market dominance to grow through capping their ability to deliver value to consumers will have the perverse effect of awarding even more market power and share to the dominant schemes, stifle product innovation and limit consumer choice.
 - b. Maintaining interchange regulation of Visa and MasterCard transactions in its current form, provided the timing of the compliance with the standard is assessed annually to avoid the gaming of interchange fees.
 - c. Additional surcharging regulation is not likely to materially alter current practices and would be more likely to create unnecessary or unwarranted regulatory burdens on businesses that are not engaging in excessive surcharging. Therefore, no additional surcharging regulations are appropriate at this time and public resources should not be expended to

enforce what are essentially private rules of the schemes. In terms of providing real time information regarding merchant service fees, American Express' merchant fees are completely transparent to the merchant and do not differ according to which American Express card is presented.

Section 1 – Policies Underpinning Interchange Reform

Level Playing Field or Entrenched Duopoly?

American Express has to prove its value every day to cardholders and merchants in the face of the ubiquitous dominant networks. No consumer or merchant has to accept American Express; it is their choice whether or not to do so and we recognise that many do not. The ability to differentiate is fundamental for smaller networks to be able to compete.

It is highly disingenuous to claim that American Express' licensed issuing arrangements with banks should be regulated akin to the dominant four party schemes in order to create a level playing field. In our view the phrase *level playing field*, although superficially compelling and easy to sell as a policy option, is, at least in the payments market in Australia, a smoke screen by the dominant card schemes and their backers to obscure their intention of reducing or even eliminating competition and thus reinforcing their incumbent positions.

The playing field is not level, and it has not been for some time, because Visa and MasterCard achieved their market dominance on the back of collective, inter-bank arrangements that subjected them to anti-competitive scrutiny by the ACCC in 2000 and then ultimately regulation by the RBA's Payment System Boardⁱ. The anti-competitive activities of Visa and MasterCard and the subsequent decision by the RBA to impose interchange regulation are covered at length in American Express's earlier submission to the FSI appended to this submission.ⁱⁱ

American Express then, and now, has no collectively-set fees agreed among institutions who compete with each other. Nor are we aware of any other new entrant or payment service provider in Australia having such fees – save for the big two prior to the original regulatory intervention of the PSB in 2002. It may be an inconvenient fact, but it is fact nonetheless that Visa and MasterCard's anti-competitive conduct was what triggered interchange regulation in the first place.

A regulatory level playing field does not mean one size fits all, particularly where competitors have starkly different business models and where the dominant duopoly compete with imbalanced power and entrenched positions. Rather, it means similarly situated competitors should be treated similarly and differently situated competitors should be treated differently, to ensure a fair and proportionate regulatory approach. Given the barriers to entry posed by scale, cost and long-term incumbency, identical price regulation for all market players would materially undermine the ability of American Express, PayPal and other newer market entrants to develop strategies and products to contest the market. Visa and MasterCard already process 81 per cent by value of credit card transactions and

almost 25 per centⁱⁱⁱ of debit card transactions, and they stand to gain even bigger shares by suppressing competition and innovation in the Australian payments market from other schemes and networks.

Extending the same regulatory treatment to industry players who have competed fairly without the advantages of dominance or collective anticompetitive practices will only undermine competition, innovation and consumer choice.

Effective Competition and Innovation in the Concentrated Australian Payments Market

When the United States Department of Justice^{iv} (DOJ) filed a complaint against Visa and MasterCard in 1998 over their anticompetitive^v conduct in restricting access to bank issuing by other payments networks, the DOJ and its expert witnesses stressed the importance of American Express' differentiated business model as a competitive check on Visa and MasterCard. They explicitly recognised the need for American Express to compete for bank issuers^{vi} to remain a viable differentiated competitor for the market to function competitively.^{vii} Although the USA is a different geographic market, the fundamentals of competition remain the same.

To be clear, American Express is not asking for any 'free kick' here: the point is that the duopoly sharing 81 per cent by value of credit card transactions do not require competitive neutrality to grow or further entrench their market dominance, whereas imposing interchange-type regulation on the dual card offerings of American Express' bank partners may cause them to cease offering American Express Cards. That in turn would likely damage our future viability as a competitor and a product innovator – none of which is good for Australian merchants or consumers. The only parties it will benefit are Visa and MasterCard.

Payment Networks are not a Commodity

It is tempting to look at all payment networks operating in Australia as interchangeable and substitutable commodities such as electricity or gas; taking the position that, regardless with which issuer or network you deal, the service is the same.

This is simply not true and is certainly not true of the American Express payments network. Payment networks can offer value to card members and merchants above just the basic processing of the payment transaction.

American Express card members gain the benefits of extended credit terms, rewards, purchase protection, fraud protection and world class customer service, and (as more fully spelled out below) American Express merchants gain the benefits of valuable high-spending customers, business insights, marketing, relationship management and superior fraud services.

American Express has always been, and remains, a discretionary card; the vast majority of American Express card members hold a Visa or MasterCard product. Because American Express is not a utility, it has to prove its value to both consumers and merchants every day.

We are not a smaller, niche version of Visa and MasterCard – from our beginnings we offered something different to merchants and our closed loop model and direct relationships with merchants means we can offer value to merchants beyond the bare payment transaction. American Express is differentiated from the ubiquitous Visa and MasterCard and adds sufficient additional value to merchants to justify its premium. For example, American Express offers merchants:

a. Larger Transaction Sizes

Analysis of the Reserve Bank data on the Australian payments market indicates that in the last 4 years, three-party scheme cardholders (which are primarily American Express cardholders) have spent between 36-38 per cent more on average per transaction than Visa and MasterCard cardholders.

b. Targeted Merchant Marketing

The direct relationship that American Express has with its merchants means we can create targeted marketing campaigns that deliver real business uplift and high returns on investment.

- A large Australian electronic and homewares merchant has worked closely with American Express for the past three years with the objective to increase their average basket size. The 2013 campaign delivered a 250 per cent increase in the average transaction for the control group of card members involved in the promotion compared to the Network average.
- A multi-market bricks and mortar retailer worked with American Express on a campaign to drive engagement in their online offering. The campaign ran across a 6-month period and resulted in a 97 per cent year on year increase in sales. More importantly through targeting and data analytics we were able to ensure that the customers we were bringing to the table were new with 94 per cent of the card members who took up the offer having not previously used this channel.
- American Express also offers merchants the opportunity to participate in multi-merchant marketing campaigns. A recent multi-brand fashion campaign targeted at selected card members resulted in an average 17 per cent year over year increase in spend for the 60 participating merchants.

c. American Express Offers

In 2013 American Express launched an innovative digital platform to target offers based on the card member's spend graph of 'like' spend and serve up recommendations. For card members this means they receive more relevant offers based on their history of spend. For merchants it has been used to drive new business to and increase the average transaction size which in turn drives revenue to our merchants. The platform is still new but early results indicate a high take up of offers by card members with more than 60 per cent of merchant offers redeemed being made by customers new to that merchant.

d. Shop Small

Shop Small is a nationwide effort, launched by American Express in 2013 to bring together the business community, governments and consumers to support small businesses in Australia. What began as a one-day event in the United States five years ago is now a coordinated campaign that has expanded across three continents. While there is no year on year comparison at this stage, the campaign generated increased volume in small merchants with more than 90,000 small businesses seeing new business from American Express during the month of November. The campaign is being expanded and repeated by American Express and its business partners later in 2014.

Visa and MasterCard are unable to offer merchants all of these benefits because they are simply networks on which to process card payments.

Where merchants choose to accept American Express, it is because they accept that our premium price is justified by our differentiated value offering. A merchant who does not agree that American Express is worth its price premium need not accept American Express. And many Australian merchants make that choice. Australian merchants are not able to exercise the same choice with Visa and MasterCard, because nearly every consumer holds a Visa and/or a MasterCard.

Every day, businesses and consumers choose to purchase particular products or services that cost more than alternatives. They choose to do so because they have concluded that the higher price tag is justified by some extra value, feature or benefit they receive compared with less expensive alternatives. There can be no sound regulatory or economic theory to justify price regulation of American Express given that it offers unique merchant products at different price points to its competitors, in a market where merchants are free to choose not to accept American Express, and where our network processes less than 20 per cent of the volume of credit and charge card transactions and some 11 per cent of credit, charge and debit transactions in Australia.

Price caps across the entire credit card industry reduce the ability to compete on value and reduce all payments effectively to a commodity, which would not only entrench but even increase the dominant market share of Visa and MasterCard.

Policy Recommendation – Interchange

Under the FSI principles that regulation should be targeted and proportionate, if the current interchange arrangements remain in place, then they should apply only to the dominant Visa and MasterCard payment schemes and allow competition from smaller schemes to continue.

Section 2 – Interchange Reform: Why American Express Companion Cards ought not to be Interchange Regulated

American Express licenses banks to issue cards on the American Express network in Australia, and bilaterally negotiates commercial terms for them to do so. The company started this business in 1997 to enhance its relevance and attractiveness in countries like Australia where a proprietary card business was already in operation, and to expand into new countries.

In keeping with the premium nature of our brand, we work with banks to offer innovative card products to a partner's most high spending or affluent base, i.e. the products offered by our issuing banks are required to be feature-rich and offer differentiated value in the market.

Differentiated value is the cornerstone of our entire business in Australia. By and large consumers and merchants need to seek out an American Express relationship. American Express Card acceptance and use is a product of choice, not default. To overcome the deep incumbency and sheer market power of the Visa and MasterCard brands within the Australian payments sector, American Express has had to innovate and develop card products and create demand for them, such as for super premium lifestyle products including the Centurion or "Black" American Express Cards.

Differentiated value in this context is reliant on the flexibility to create new product offerings, but equally importantly, has meant we have had to create alternative business models with the freedom to negotiate pricing and commercial terms on the basis of the value delivered.

Restricting the financial terms American Express offers its licensed issuers to the same level as Visa and MasterCard would undermine our ability, and that of other niche or new players in the payments market, to partner with other financial institutions at all. If banks choose only to issue Visa or MasterCard cards and can only earn regulated interchange revenue, this will by necessity reduce the number of high-rewards credit products, purchase and fraud protections, extended payment terms and other innovations and benefits made available to consumers in connection with premium card products. There will simply be no revenue available to fund those benefits. It would reduce all bank-issued credit cards to the status of a commodity, limiting consumer choice and product innovation with no clear benefits to any parties other than Visa and MasterCard whose duopoly will be entrenched and possibly extended. If bank issuers cease offering American Express Cards, the market shares of Visa and MasterCard will be increased beyond the 81 per cent they already have.

American Express Companion Cards are not a Proxy Four-Party Scheme

Our licensing arrangements with bank partners do not make us a proxy four-party scheme, and they do not give rise to any of the competition concerns that led regulators in Australia to intervene in the credit card segment in the first place. There are critical points of differentiation within our business model which belie the assertion that our licensed issuing arrangements with bank partners are of similar economic substance to the dominant schemes;

- all partner licensing arrangements are bilaterally, individually and confidentially negotiated, including all financial terms;
- there is no collective decision-making or agreement on fees or network rules;
- when a bank chooses to issue companion cards, one important thing does not change – merchants still have the choice whether or not to accept American Express cards. Dual cards are not ubiquitous, nor are they utilities;
- there is no partner involvement in deciding who may qualify for an American Express licence;
- no partner plays any role in American Express governance or decision-making at any level;
- no equity interest in American Express is reserved for partners;
- the commercial terms American Express negotiates with bank issuers do not drive or set a floor under the merchant service fees paid by merchants. Conversely, interchange fees of the dominant schemes sets the floor under the fees paid by merchants to acquirers in those schemes;
- American Express remains the sole acquirer on its network in Australia.

Policy Recommendation – Companion Cards

Niche industry players, including American Express, should not be targeted or captured by a regulatory instrument aimed to correct and adjust the cartel-like behaviours of the still dominant card schemes. Constraining the ability of American Express and other industry players without market power to compete, will have the perverse effect of awarding more market power and share to the dominant schemes, stifling product innovation and limiting consumer choice.

Section 3 – Interchange Reform: Compliance will aid Transparency

Since interchange regulation was imposed in 2003, Visa and MasterCard have been required to constrain their interchange to a weighted average based on a cost-based formula set by the RBA. The current weighted average is set at 0.5 per cent. In response, Visa and MasterCard

added new categories of fees to their interchange rate tables in Australia, and widened the range between the top and bottom rates, in order to ‘game’ the interchange cap system in 2 ways; to minimise transparency of merchant pricing, and exploit timing of compliance with the Interchange Standard.

1. Gaming the System: Obscuring the price paid by merchants

As seen from the current Visa and MasterCard Interchange table^{viii}, the general tactic of the dominant duo has been to:

- Reduce industry based interchange rates for certain industry categories and strategic merchants; and
- Increase interchange rates for their premium cards.

The RBA has itself acknowledged this and in 2012 stated that^{ix}:

“the weighted-average of interchange fees within the MasterCard and Visa credit card schemes must comply with a cap on specified dates and whenever interchange fees are altered. Card schemes, however, still have the flexibility to set different interchange fees for different types of transactions, including some that are above the level of the cap. Not surprisingly, the card schemes have used this flexibility in a way that maximises revenue within the regulatory framework. One strategy has been to increase or introduce high interchange fees for some categories (such as platinum/premium card transactions), and decrease or introduce low interchange fees for some other categories (such as transactions at ‘strategic merchants’)”.

“Some of these new pricing strategies have focused on upgrading existing cardholders – offering platinum cards with additional benefits or more generous rewards for no additional annual fee – which has the effect of generating increased interchange revenue for the issuer every time a customer uses their card”.

Pre-reform there were only two interchange categories for each scheme, compared to 19 for MasterCard today, and 23 for Visa. Although the current weighted average interchange rates are lower than the pre-reform position, some individual interchange rates are significantly higher than pre-reform, with the highest Visa and MasterCard interchange rates being 2.20 per cent.

More recently in its submission to the Financial System Inquiry, the RBA noted that:

“the cost of these higher interchange categories tends to fall on medium-sized and smaller merchants and other merchants that do not benefit from preferred rates. Given the operation of the hierarchy of the interchange fee schedules, a premium card will always carry an interchange fee as low as 0.20 or 0.23 per cent when presented to a merchant with the lowest strategic rate, but will have an interchange payment of up to 2.0 per cent for a merchant that doesn’t benefit from preferential arrangements.”

This means in practice that there is little transparency to the merchant at point of sale – the cost to them varies depending upon what type of Visa or MasterCard product is presented. A

premium Visa or MasterCard credit card attracts an interchange in the range of 1.65 to 2.20 per cent. As interchange in the four-party schemes sets the floor for the merchant service fee, the merchant will be paying more than this on a per transaction basis. However, it is doubtful if many merchants are aware of this, because they are unlikely to receive sufficiently detailed information from which they can relate fees they pay to particular cards they accept.

By comparison American Express' pricing is simple and transparent. A merchant pays a single ad valorem merchant service fee for accepting American Express cards, irrespective of card type or issuer.

2. Gaming the System: Timing of compliance with the interchange standard

Given that compliance with the weighted average of 50 basis points interchange is currently only required every 3 years, (assuming the interchange tables are not otherwise amended) Visa and MasterCard have used this timing to their advantage by creating these new high interchange categories, which encourage issuers to earn greater interchange revenue by force migrating their card portfolios into these categories.

The RBA acknowledged this in 2012^x:

“During the second half of 2010, several major banks began a process of upgrading their gold cardholders to platinum card products...to take advantage of price differentials in interchange fees. Effectively, the cardholder receives a new platinum card product (or card product offer) in the mail to replace their existing gold credit card for no additional cost or annual fee... The move to upgrade cards in this way allows issuers to increase interchange revenue received on those cards, which may more than offset the cost of offering any additional reward points or other benefits”.

“In the short term (that is, until the next compliance date), card issuers can generate considerably more interchange revenue per transaction by issuing and encouraging cardholders to use platinum and super-premium cards rather than standard or gold cards... While providing an incentive to issuers, however, these trends in interchange arrangements add correspondingly to costs on the acquiring (merchant) side of the market”.

The capacity for gaming of the weighted average is greater where there is a lengthy period between compliance dates.

Policy Recommendation – Interchange

Assuming Interchange regulation remains at its current regulatory setting, compliance with the standard should be assessed annually to avoid the gaming of interchange fees.

Section 4: Surcharging

As set out in our earlier submission, American Express' view has always been that surcharging is unfriendly to consumers, brand-damaging to payment networks, prone to exploitation by merchants with market power or who are unscrupulous, and should not have been introduced in the first place.

American Express remains of the view that the surcharging regime has gained little or no benefit for Australian consumers. However American Express does not support further regulatory intervention on the issue of surcharging.

American Express has invested significant amounts in changing merchant agreements, educating merchants and otherwise responding to the impacts of surcharging and differential discrimination over the past 10 years. These are sunk costs that cannot be used to increase our value or product offerings for card members or merchants. American Express prefers to avoid incurring significant extra expense of implementing compliance with further regulation in this area.

Furthermore, public criticism regarding over-surcharging tends to be directed at specific merchants or industries in Australia rather than at the majority of merchants, so implementing broad merchant regulation at significant public cost is not an efficient response. We agree with the Inquiry's observation that targeting industries with high rates of over-surcharging is more efficient than introducing economy-wide regulation. In pockets where over-surcharging does exist, the payment schemes already have sufficient powers within their scheme rules to punish merchants or remove them from the network so further regulation is neither necessary nor in the public interest.

Policy Recommendation – Surcharging

Additional surcharging regulation is not likely to materially alter current practices and would be more likely to create unnecessary or unwarranted regulatory burdens on businesses that are not engaging in excessive surcharging. Therefore, no additional surcharging regulations are appropriate at this time and public resources should not be expended to enforce what are essentially private rules of the schemes.

i Competition law issues were the genesis of the RBA's investigation of and subsequent intervention in the multilateral interchange fees of the dominant schemes in Australia. After a two year investigation, the Australian Competition and Consumer Commission (ACCC) concluded in March 2000 that interchange fees were based on unlawful anticompetitive agreements within the MasterCard and Visa networks. Later that year the ACCC actually started enforcement proceedings, before asking the RBA in March 2001 to take over responsibility for the matter and use its powers under the new payments legislation to resolve the problems that had been identified with interchange fees and membership of card schemes. Source: ACCC Media Releases of 4 September 2000 "ACCC alleges price fix by bank" and 21 March 2001 "ACCC recommends Reserve Bank consider using powers to reform credit card schemes".

ii American Express Submission to the Australian Financial Systems Inquiry, May 2014, pages 5-8.

iii EFTPOS annual report 2013

iv The US equivalent of the Australian Attorney-General's Department

v In the US referred to as antitrust

vi Bank issuing is the business of allowing banks to issue cards on the American Express network. This is the model that the FSI has referred to as "the companion card" model.

vii See, eg DX0733 at 355: "A second lesson is that the associations will be driven to compete more vigorously if American Express and NOVUS are stronger competitors. In other countries, American Express issuing agreements with member banks have spurred the associations to improve their services. For example, in mid- to late 1995, Visa International considered several initiatives to meet the growing competitive threat posed by American Express, including issuance agreements between American Express and several banks around the world."

viii The current Visa and MasterCard Australian interchange tables are reproduced below.

Visa Interchange Table

Description	Rate inclusive of GST
Charity rate	0%
Strategic Merchant Program rate	0.22% - 0.44%
Recurring Payment Transaction rate	0.33%
Government rate	0.33%
Transit rate	0.33%
Utility rate	0.33%
Service Station rate	0.33%
Supermarket rate	0.33%
Education rate	0.33%
Insurance rate	0.33%
Electronic rate	0.33%
Standard, Card Not Present and Paper rate	0.33%
Platinum rate	1.023%
Super Premium (Visa Rewards), Non-qualified rate	1.65%
Super Premium (Visa Rewards), Qualified rate	1.87%
Super Premium (Visa Signature) rate	1.98%
High Net Worth, Non-qualified rate	1.98%
High Net Worth, Qualified rate	2.20%
Business rate	1.067%
Commercial Premium rate	1.43%
Business Signature rate	1.98%
Corporate rate	1.32%
Purchasing rate	1.32%

MasterCard Interchange Table

Description	Rate inclusive of GST
Charities	0.000%
Strategic Merchants 1	0.250%
Strategic Merchants 2	0.320%
PayPass (= < AUD 60, and excluding Commercial Cards)	0.320%
Government & Utilities	0.320%
Petroleum	0.320%
Education and Learning	0.320%
Recurring Payments	0.320%
Quick Payment Service	0.440%
SecureCode Merchant UCAF	0.33%
SecureCode Full UCAF	0.33%
Consumer Elite	2.20%
Consumer Super Premium	1.75%
Commercial Business Executive	1.48%
Commercial Corporate Executive	1.43%
Commercial	1.10%
Consumer Premium	1.04%
Consumer Electronic	0.33%
Consumer Standard	0.33%

^{ix} <http://www.rba.gov.au/publications/bulletin/2012/mar/pdf/bu-0312-7.pdf>

^x <http://www.rba.gov.au/publications/bulletin/2012/mar/pdf/bu-0312-7.pdf>

Appendix



American Express Submission to the Australian Financial Systems Inquiry

May 2014

Table of Contents

Executive Summary	3
Interchange fees	4
Global regulatory action against Visa and MasterCard	5
Regulating the credit card sector in Australia.....	7
Merchant Fees	8
American Express Global Network Services.....	10
Card scheme market shares.....	11
The level playing field and competitive neutrality	13
What does American Express want?.....	15

Executive Summary

1. Visa and MasterCard have made submissions (Submissions) to the Financial System Inquiry (Inquiry) with a single-minded objective: they call for American Express and others to be subject to further regulation under the Reserve Bank's payment systems regime, for their own competitive benefit.¹
2. American Express Australia Limited has prepared the following observations in response to their Submissions and asks the Inquiry to take these into account in framing its report and recommendations to the Commonwealth Government.
3. Visa and MasterCard dominate the payment card sector in Australia. Although they enjoy a joint share of nearly 81% of the credit and charge card sector², they feel hard done by. They maintain that they have suffered an unfair competitive disadvantage because the RBA did not include American Express in its 2002 Interchange Standard. They are seeking the Inquiry's support in persuading the government to change this and regulate American Express and future market entrants, so as to entrench their dominance of card payments in Australia.
4. To support their claims, they have manipulated publicly-available share data to exaggerate the gains of American Express and Diners Club, whilst ignoring the inconvenient fact that their own anti-competitive conduct had caused them to be regulated in the first place.
5. In 2012, Visa and MasterCard lobbied successfully for the Merchant Pricing Standard to be changed to allow them to restore scheme rules to limit surcharging. Barely one year later, finding enforcement problematic, the dominant schemes are calling for public resources to enforce their private scheme rules. They want the government to prohibit and then stamp out excessive surcharging by merchants. This would entail creating a new crime of excessive surcharging, and funding a government agency to enforce it. In other words the dominant card schemes want the Inquiry to recommend using public resources to make a breach of their private rules into a crime.
6. American Express will submit as follows:
 - a) Multilateral Interchange Fees (MIF) have propelled Visa and MasterCard to their current dominant position in the card payment market.
 - b) Concern about the anti-competitive nature of the Visa/MasterCard MIFs was a significant reason why the Reserve Bank regulated the dominant schemes in 2003.

-
- c) Their MIFs are based on anti-competitive price-fixing arrangements which have been subject to regulatory interventions and findings of illegality in the European Union, New Zealand and elsewhere.
 - d) American Express has neither a business model nor an MIF that is comparable to Visa or MasterCard and it has grown its business more slowly than the dominant schemes and without any of the same anticompetitive or unlawful conduct. American Express should therefore not be subject to the same type of pricing regulation as the dominant schemes.
 - e) There is no need for the Inquiry or the Commonwealth Government to help Visa and MasterCard become even bigger or to use public resources to enforce the private rules of the dominant schemes. Government intervention as proposed will diminish effective competition in a segment already dominated by the Visa and MasterCard duopoly and increase red tape for merchants and public sector administration and enforcement costs. The current surcharging regime has become unworkable and should be removed.
 - f) There is a case for further regulatory intervention to improve transparency in two areas:
 - individual scheme shares of credit and debit card segments should be published by the RBA; and
 - Acquirers should provide merchants with more information about Interchange fees passed through to them, so that merchants can better understand their costs of accepting different cards.

Interchange fees

1. Interchange fees feature prominently in this discussion. In their Submissions, Visa and MasterCard describe their multilateral interchange fees (MIFs) and set out their respective views of how MIFs should be characterised, how they help promote each payment network and its participants and why they should not be regulated.
2. From Visa's Submission we learn that *Rather than require all of the thousands of Visa issuers and acquirers around the world to negotiate bilateral interchange agreements among themselves, Visa sets default interchange rates that apply in the absence of a bilateral agreement.*³

-
3. In its Submission MasterCard explains that - *Globally, MasterCard's interchange methodology....is aimed at promoting the widespread issuance and acceptance of MasterCard behaviour, possible fraud losses, the business environment, the regulatory environment, systems implications and other relevant factors, in order to maximise the value of the MasterCard brand and business for the benefit of its customer banks, merchants and consumers.*⁴
 4. There is extensive literature about interchange fees, their purpose and economic effects. MIFs in the Visa and MasterCard networks are collectively-set wholesale prices. As noted by Visa, the MIFs make it much easier for issuers and acquirers to join the scheme, because otherwise they would have to negotiate interchange fees bilaterally thousands of times. MasterCard confirms that one of the aims of MIFs is *promoting the widespread issuance and acceptance of MasterCard products*. In each case MIFs help the scheme maximise its transaction volumes and grow more quickly by taking on new members and/or gaining widespread acceptance. In the prospectus accompanying its 2007 Initial Public Offering, Visa acknowledged that: *we believe that interchange fees are an important driver of system volume.*⁵
 5. By expediting the addition of new members and driving system volume, interchange fees help Visa and MasterCard get bigger: in other words, since they were introduced decades ago, their MIFs have propelled market share growth of the duopoly. Thanks to MIF, Visa and MasterCard were able to overtake other payment schemes and capture more than 80% of the credit card sector in Australia.

Global regulatory action against Visa and MasterCard

6. What Visa and MasterCard do not mention in their Submissions is how profoundly and consistently regulators across the world have disagreed with their views about MIFs. Since 2002, the Visa and MasterCard MIFs have been examined by competition regulators and courts in many countries. A table summarising these various proceedings in 23 countries plus the European Union is attached to this submission.⁶ The table was prepared in August 2013 in the Research Department of the Kansas City branch of the United States Federal Reserve System.
7. In the overwhelming majority of cases, the court or investigating authority held that the collective setting of Visa/MasterCard MIFs to constitute an unlawful anti-competitive agreement or arrangement that could not be justified by any redeeming social benefit, other than benefits to the dominant schemes themselves and their members. In some cases, fines have been levied against Visa and MasterCard and/or their members. In many cases, they have been forced to lower their MIFs.

-
8. In May 2012 the European General Court rejected MasterCard's appeal against a 2007 decision of the European Commission. The Commission had ruled that, under the law of the European Union:-
- a) The MasterCard MIF is a decision of an association of undertakings that restricts competition between acquiring banks by inflating the base on which acquiring banks set charges to merchants and thereby sets a floor under the merchant fee. In the absence of the MIF, the prices set by acquiring banks would be lower to the benefit of merchants and subsequent purchasers.⁷
 - b) The nature of the MasterCard MIF is unchanged by its IPO of 2005. Despite its transformation in to a public company, the MasterCard payment organisation had continued to be an *institutionalised form of coordination of the conduct of the banks*.⁸
 - c) The MasterCard MIF is not objectively necessary for the operation of an open payment card scheme such as MasterCard's. Evidence from five open card schemes (long-standing debit card schemes in Denmark, Norway, Luxembourg, Netherlands and Finland) without a MIF shows that an open card scheme such as MasterCard's would be viable in the absence of a MIF.
 - d) Under European competition law, unlawful anti-competitive agreements may nonetheless benefit from an exemption if they satisfy four conditions.⁹ However, none of these were satisfied by the MasterCard MIF, which is therefore an illegal agreement under European law in the judgement of the General Court.
9. MasterCard has appealed the judgement of the General Court to the European Court of Justice. The EU Commission has also started new proceedings against MasterCard to investigate its inter-regional inter-bank fees and rules regarding MIF in cross-border acquiring within the EU.¹⁰
10. The EU Commission has taken a similar position on the MIF set by Visa for transactions with consumer credit cards in the European Economic Area¹¹ after reaching the preliminary conclusion that the Visa MIFs *restrict competition between banks and infringe EU antitrust rules that prohibit cartels and restrictive business practices*. The Commission considers that the legal principles underlying the judgement of the EU General Court in the MasterCard case apply equally to Visa's MIF and is therefore proceeding against Visa in similar fashion.
11. Contrary to claims by its competitors, American Express has not benefited from reductions in the MIFs of the dominant schemes as a result of regulatory interventions. In Spain American Express has realised no market share growth despite a regulator-induced reduction in Visa and MasterCard's MIFs between 2005 and 2010. Similarly in France, where the MIFs of the dominant schemes for domestic

transactions were reduced to 0.28% by agreement with the French competition regulator in 2013, American Express has gained no share.

12. In New Zealand, the Commerce Commission issued civil proceedings in November 2007 against Visa, MasterCard and 10 financial institutions for alleged price-fixing in relation to MIFs. In 2009, the parties settled with the Commerce Commission by, inter alia, agreeing to pay costs of NZD 6.6 million and making changes to the way that their MIFs operated in New Zealand.¹² American Express was not subject to the Commerce Commission's interventions in New Zealand as it did not have an MIF or engage in any price-fixing.
13. Unlike Visa and MasterCard, who have repeatedly featured as the objects of interventions and enforcement, American Express has not been the target of any investigations or proceedings relating to MIF, because it does not set fees collectively and has no market power.

Regulating the credit card sector in Australia

14. Competition law issues were the genesis of the RBA's investigation of and subsequent intervention in the MIFs of the dominant schemes in Australia. After a two year investigation, the Australian Competition and Consumer Commission (ACCC) concluded in March 2000 that interchange fees were based on unlawful anti-competitive agreements. Later that year the ACCC actually started enforcement proceedings, before asking the RBA in March 2001 to take over responsibility for the matter and use its powers under the new payments legislation to resolve the problems that had been identified with interchange fees and membership of card schemes.¹³
15. The RBA proceeded to regulate the Visa and MasterCard MIFs and also restricted them from preventing merchants from surcharging. By virtue of its voluntary undertaking to the RBA, American Express is subject to the same rules on surcharging as Visa and MasterCard.
16. Why was American Express excluded from interchange regulation? Primarily, because it does not have collectively-set interchange fees agreed between institutions who are supposed to be competing with each other. And, critically, its business model is different to that of Visa and MasterCard. The RBA explained this in its 2001 Consultation Document, in which it laid out its reform proposals for the credit card industry –

The three party card schemes do not have a process under which competitors collectively agree to set a price which then affects, in a uniform way, the prices each of the competitors charges to third parties. For this reason, the Reserve Bank

saw no case on public interest grounds to designate the three party card schemes to deal with issues relating to collective fee setting (or restrictions on entry).

The citation is from a longer passage explaining the RBA's rationale for not imposing interchange regulation on the three-party schemes that is set out in full in the end note.¹⁴ This rationale is as valid today as it was in 2001.

Merchant Fees

17. American Express has a value-based pricing model. This means that the price we ask a merchant to pay for accepting American Express cards is based on various factors, including: the business volume, spend analytics and marketing opportunities we can offer a merchant, the type of merchant and the competitive environment in which it operates. Independent data of the Reserve Bank cited by Visa's economists indicates that in the last 4 years, three-party scheme cardholders (which are primarily American Express cardholders) have spent between 36% - 38% more on average (per cardholder/per card) than Visa and MasterCard cardholders.¹⁵
18. No consumer or merchant has to hold or accept American Express products and merchants frequently exercise their right not to do so, which accounts for the lower coverage of American Express relative to the ubiquitous Visa and MasterCard. A merchant has little or no choice but to accept the cards of the dominant schemes, and thus they all do so.
19. American Express cannot force any merchant to accept its terms, which are therefore subject to negotiation. We routinely incur the risk that a merchant will decide not to accept American Express Cards at all, or to accept and then later decide to surcharge our cardmembers, or to display our brand and then steer our clients to use the products of Visa and MasterCard.
20. American Express remains subject to strong competitive forces. Since interchange regulation took effect in 2003, American Express' average merchant fees have declined similarly to those of Visa and MasterCard.¹⁶

Date	Visa/MasterCard	American Express	Difference
March 2003	1.45	2.51	1.06
December 2013	0.83	1.73	0.90

21. American Express' pricing is simple and transparent. A merchant pays a single ad valorem merchant service fee for accepting American Express cards, irrespective of card type or issuer. Merchant Fees of Visa and MasterCard are often based on a pass through of the applicable MIF (which may vary according to what type of card product

is presented) plus the acquirer's margin. This, and the fact that MIF is collectively agreed by the banks without any involvement of merchants, is why regulators and courts have determined that the MIFs of the dominant schemes set a floor under merchant service fees and keep those fees higher than they would otherwise have been in the absence of the collectively-set MIF.

22. By comparison, the merchant pricing for Visa and MasterCard transactions lacks transparency. Visa and MasterCard have added new categories of fees to their interchange rate tables for Australia in the last few years, and have widened the range between top and bottom. A few large strategic merchants may enjoy low interchange rates of 0.22 to 0.44%. But at the top end the rates for premium products range from 1.65 to 2.20%.¹⁷ Because Visa and MasterCard are required to contain their interchange to an average of 0.50% across the scheme, smaller merchants who accept Visa and MasterCard bear the cost of the high interchange fees as the highest component of their merchant fees. However, it is doubtful if many merchants are aware of this, because they are unlikely to receive sufficiently detailed information from which they can relate fees they pay to particular cards they accept. This lack of pricing transparency means many Australian merchants simply cannot know what their card acceptance costs are per transaction, or per card type, when accepting cards on the Visa and MasterCard networks.
23. Visa and MasterCard lobbied hard in 2012 for the Merchant Pricing Standard to be changed to allow them to restore scheme rules to limit surcharging. The Standard was duly amended with effect from 18 March 2013 to allow the schemes to limit surcharging to the merchant's reasonable cost of card acceptance. Barely one year later, the dominant schemes are calling for public resources to enforce their private scheme rules. They justify this by pointing to the unwillingness of their acquirers to enforce the rules and the need to protect commercial relationships between each scheme and its members and between the members and their merchants. In other words, because enforcing their own rules does not suit their business convenience, they are asking the government to do it for them at the cost of Australian taxpayers.
24. For proof of how grotesquely convoluted and unworkable the surcharging regime in Australia has become since the 2013 reform, one need look no further than to these calls for public enforcement of the private rules of the dominant duo. Creating a new crime of, presumably, *surcharging by more than the reasonable cost of card acceptance*, is no less unworkable than the current situation, because of:
 - the lack of clear and consistent information about acceptance costs in the dominant schemes; and
 - the obvious difficulty of defining criminal conduct by reference to *reasonableness*, which is essentially an elastic civil law notion.

American Express' view has always been that surcharging is unfriendly to consumers, brand-damaging to payment networks, prone to exploitation by merchants with

market power or who are unscrupulous and should not have been allowed in the first place.

American Express Global Network Services

25. Visa and MasterCard are troubled by the American Express Global Network Services (GNS) business. GNS licenses banks to issue cards on the American Express network, and pays them an issuer's rate for doing so. The dominant schemes say that GNS is the same as their business, that the GNS issuer's rates are the same as their interchange fees and therefore should be regulated in the same way.
26. But GNS is not the same as Visa and MasterCard:
 - a) It holds a niche position and no market power.
 - b) GNS' issuer's rates are not set by a collectively-determined price-fixing arrangement between organisations that are supposed to be competing with each other, but are bilaterally and confidentially negotiated between American Express and each issuer.
 - c) The issuer's rate does not raise the floor for American Express' merchant fees, because the issuer's rate may vary according to changes in the merchant fees, not the other way round. In other words, reducing GNS' issuer's rates will not drive a corresponding reduction in American Express' merchant fees. The merchant service fee charged by American Express is determined independently of issuers on the network, and merchants who choose to accept American Express agree to pay a premium because American Express provides them with added value and higher-spending cardholders.¹⁸
 - d) GNS licensed issuers have no involvement in the governance of the American Express network and play no role in determining either the commercial and financial terms agreed with other GNS issuers or any network pricing or policies. American Express is solely involved in all governance decisions concerning its payment network, and all GNS issuer arrangements are negotiated at arm's length. In contrast, the European General Court found that, after its 2005 IPO, MasterCard continued to present an *institutionalised form of coordination of the conduct of the banks* – in other words, a club of banks.
 - e) American Express remains the sole acquirer on its network in Australia.
27. The RBA has previously investigated whether it would be in the public interest to regulate American Express' GNS business and concluded in 2005 that such regulation *would not improve the overall efficiency of the payments system*¹⁹, because:

“In the Bankcard, MasterCard and Visa schemes, the interchange fee paid by the merchant’s bank to the cardholder’s bank has an important influence on the charge levied on the merchant by its bank.

In contrast, in the American Express and Diners Club arrangements, the causation runs the other way. Merchant charges are determined largely independently of the payment to the partner banks: instead, the fees that merchants pay influence the size of the payments to the banks.

Given this, regulating the payments that flow between American Express and Diners Club and their partners would be likely to have little effect on merchants’ costs of accepting the cards. This is in contrast to the credit card schemes, where merchant service fees fell quickly following the reforms to interchange fees”.

28. Visa, citing an American Express media release in relation to proposed EU reforms, makes the specious claim that *American Express accepts that its four party model would be regulated in the same manner as traditional four-party model schemes such as Visa and MasterCard.*²⁰ In fact the media release in question was only reporting the EU’s proposals in a bulleted list. American Express has not “accepted” this proposal at all, which, together with the other elements of the EU’s proposals, continues to be the subject of considerable public debate in Europe.

Card scheme market shares

29. Visa and MasterCard have cried foul, that they have lost credit card share to the three-party schemes since the RBA’s card reforms and that this makes the reforms ‘unfair’. This complaint is misleading in at least four respects; first, because the stated reduction in the Visa/MasterCard share is exaggerated; secondly, it omits to mention the inroads of the duopoly in to the closely related debit card segment since 2006; thirdly, because the growth in the share of the three-party schemes is attributable to product and issuer innovation; fourthly, it overlooks the wider context of the decades of illegal anticompetitive conduct of the dominant schemes, which is why they were able to achieve such overwhelming shares in the first place.
30. The joint market share claimed by Visa and MasterCard at the outset of the reforms has been exaggerated and any gains by the three-party schemes ended in mid-2010, since when the market share situation has been relatively stable. Also, Visa and MasterCard are silent about debit cards, a segment in which they have advanced relentlessly since 2006.
31. According to the statistical table of the RBA²¹, the combined credit card share of American Express and Diners was 13.8% (by value of purchases) in January 2002, just before the RBA commenced its card reforms. At that time Visa, MasterCard and Bankcard had a combined share of 86.2%. By January 2014, the respective combined

shares of the three and four-party schemes were 18.8% and 81.2%. Between these dates, two changes were made in the composition of the tables.²²

32. First, in January 2007 the Bankcard association ceased to exist. This means that the shares of the four-party schemes, which had previously comprised three schemes, reflected only the two remaining dominant schemes from January 2007 onwards. So the duopoly must have gained share over the period of Bankcard's decline until its demise, implying in turn that their actual combined share must have been lower than 86.2% in January 2002.
33. Secondly, before March 2008, in computing the shares for Visa and MasterCard, the RBA had also included volumes for their scheme debit cards. From March 2008 scheme debit card numbers were no longer included. American Express has never issued debit cards. By including debit card volumes for Visa and MasterCard but only credit card volumes for American Express and Diners prior to March 2008, and then including only credit volumes for all networks after March 2008, the table overstated any share decline of the dominant schemes.²³
34. A straightforward comparison between the share figures in the RBA's table in January 2002 and the position 12 years later is misleading because of changes in the way the table has been compiled. These changes must mean that Visa and MasterCard started with a combined share that was in actual fact significantly lower than the 86.2% which appears in the RBA's table in January 2002, probably closer to 82.5%. Their loss of share after the card reforms is thus lower than claimed, and has probably been exaggerated by over 3.5%.
35. Even though RBA data is available for 2013, the submissions of Visa and MasterCard conveniently truncate the share data they present, stopping at 2012.²⁴ Since 2010 the combined share of American Express and Diners has been stable, as confirmed by the Reserve Bank.²⁵ And since mid-2012 it has actually been trending down.
36. A similar conclusion was reached by the European Commission in its proceedings against MasterCard in 2007: *The combined market share of American Express and Diners Club in Australia therefore increased only slightly from 15% to 17% and thereafter remained stable* and qualified this statement: *More precisely, according to publicly available statistics of the RBA the market share of the closed schemes increased by 2.1% if calculated on the basis of transaction numbers and by 1.99% if calculated on the basis of transaction values.*²⁶
37. Visa and MasterCard enjoy the added power of horizontal integration across both credit and debit card sectors and since 2006 have made significant advances in debit. Debit card volumes have increased faster than credit card volumes. In December 2010 debit accounted for 37.2% of all purchases on debit and credit/charge cards. By December 2013, this had increased to 41.9%. MasterCard has openly attributed this change to the expansion of scheme debit cards.²⁷

-
38. The RBA observes in its Submission to the Inquiry that: *The combined American Express and Diners Club share (by value) of all credit and charge transactions has risen by about 4 1/2 percentage points from its 2003 level. Since 2010, this share has been broadly stable at 19-20 percent. The share of these two schemes in all (debit, credit and charge) card transactions is unchanged since 2003.*²⁸
39. Visa and MasterCard have exaggerated the gains of the three-party schemes and omitted to mention that any gains were arrested at least two years ago. It is the duopoly that is gaining share, not the three-party schemes.
40. Finally, the modest growth in share by American Express between 2008 and 2012 was attributable to the launch of the novel dual card product construct by card issuers, offering Australian consumers for the first time the flexibility to earn high value American Express Membership Rewards at American Express merchants together with the convenience of ubiquitous Visa or MasterCard acceptance elsewhere. Added to this is the convenience of a single account and statement combining all charges which suit both the banks and their customers. It is hardly surprising that such a novel and unprecedented card offering would attract a few percentage points of share gain over a period of several years. The gain was driven by product innovation.

The level playing field and competitive neutrality

41. Visa and MasterCard use the expressions *level playing field* and *competitive neutrality* to create a sense of injustice in support of their call for American Express to be subject to the same interchange regulation as themselves. They claim an increase in the shares of the three-party schemes as evidence of unfairness and regulatory bias; although, as shown above, any increase has been overstated, has now halted and has left the overwhelming dominance of Visa and MasterCard undented.
42. The RBA's approach to regulation was in fact to attempt to address the particular problems it saw in each type of scheme, recognising that the three-party and four-party schemes were essentially different business models. This approach was noted and endorsed in June 2006 by the House of Representatives' Standing Committee on Economics, Finance and Public Administration which held an enquiry in to the RBA and PSB Annual Reports of 2005, including a detailed examination of the RBA's card reforms:
- “4.56 *The object of the RBA's reform was to fix the problems it saw within each scheme. The fact is three-party schemes do not have multilaterally set interchange fees, and therefore it is not possible for the two schemes to be regulated in the same way. The RBA was only able to address the problems it saw within each scheme. For three-party schemes the problems were the no steering rule, the no surcharge rule and the publication of merchant fees. For four-party schemes the problem was predominately the collectively set interchange fee.*

4.57 *The committee acknowledges that three-party schemes have been advantaged when compared to the pre-reform situation. However, it must be remembered that the pre-reform situation was one in which four-party schemes had built a dominant market share operating with centrally set, unregulated interchange fees. The RBA has subsequently found that the operation of a centrally set, unregulated interchange fee is inappropriate—a finding with which this committee generally agrees (see above under reducing four-party scheme interchange fees)—and as such has moved to regulate it.*

4.58 *One of the effects of this regulation has been to provide some kind of ‘advantage’ to three-party schemes. However, it is only an advantage when compared to the pre-reform situation—a situation which has subsequently been found to be inappropriate.”*²⁹

43. Another way of putting this is that the dominant market power of Visa and MasterCard in Australia and globally has actually been built on decades of accelerated growth driven by their anticompetitive and unlawful MIF agreements, which remained unchecked until the interventions by the Reserve Bank and other regulators around the world in the first decade of this century. Visa and MasterCard have been treated gently by courts and regulators: they have been permitted to reduce interchange fees prospectively but rarely sanctioned for their anti-competitive conduct or required to compensate merchants. Compared with any modest advances of American Express and Diners in Australia since 2003 (and these have been exaggerated as explained above), that is a much longer and deeper and more patently unfair advantage.
44. If American Express’ GNS issuer’s rate were subjected to the same price caps as the MIF of the dominant schemes, this would not affect merchant fees of American Express. However this would prevent American Express from effectively competing for the business of card issuers which would cause a reduction in its business with licensed issuers and a resulting loss of share in the credit card segment to Visa and MasterCard. If Australian regulatory policy causes American Express to get smaller, that same policy will make the dominant schemes even bigger, ultimately reducing choice for both merchants and cardholders. In a country which already has industries and sectors with high concentrations of ownership and tendencies to oligopoly, this would be a negative development. Custodians of the public interest should consider whether that is a desirable outcome, and if so, how much extra market share they are comfortable awarding to the duopoly.
43. In its Submission to the Inquiry of 31 March 2014, the Australian Eftpos company fears for its very survival due to the inroads of the dominant schemes in the debit card sector and certain alleged technology lockout practices which are enabling this advance.³⁰ Does this mean that, after seeing off Bankcard in 2007, the 81 percenters are working on eliminating the remaining locally-based card payment scheme?³¹
44. In 2001 the United States Department of Justice won a long legal battle against Visa and MasterCard when the US Federal Court ruled that the two schemes had violated US competition laws by maintaining exclusionary scheme rules that barred their

member banks from issuing credit and charge cards on the competitive networks of American Express and Discover. The case ended in late 2004 when the US Supreme Court declined to hear a further appeal by Visa and MasterCard. In the years that followed, American Express and Discover recovered substantial damages from Visa and MasterCard for the years of their anticompetitive exclusionary conduct.

45. Since 2003 the card payments sector has changed in some significant respects: the Bankcard scheme ceased operation in 2007; debit card volumes have grown significantly relative to credit and, since 2006, the dominant schemes have captured a significantly larger share of the combined credit and debit market with their scheme debit cards; American Express has grown its GNS issuing relationships; Visa and MasterCard have radically changed their interchange fee structures to favour large merchants at the expense of their smaller competitors. Both four and three-party schemes have adapted to changes in different ways.
46. Conversely, some things have not changed. Despite the emergence of new competitors such as China Union Pay or Paypal, the upstream network sector continues to be dominated by Visa and MasterCard and there is no sign of this changing. In the downstream issuer and acquirer payment card sectors, no new issuers or acquirers have gained any significant shares. American Express is the only payments business which competes effectively with the dominant schemes in Australia and many other countries. It should not be impaired from continuing to do by notions of regulatory neutrality peddled by Visa and MasterCard that are really motivated by the same intention to stifle competition as their overt exclusionary scheme rules of the 1990s and early 2000s.

What does American Express want?

47. American Express has not always agreed with the manner of the RBA's intervention, particularly on surcharging. American Express' view has always been that surcharging is unfriendly to consumers, brand-damaging to payment networks, prone to exploitation by merchants with market power or who are unscrupulous and should not have been allowed in the first place.
48. But it recognises the anti-competitive situation the RBA addressed by its interchange reforms. The industry has moved on and all players- schemes, issuers and merchants- have adjusted to the new rules. At this juncture policymakers should avoid either doing anything more to destabilise the payments sector that has already undergone a decade of change or imposing more red tape and regulation on Australian merchants.
49. American Express rejects calls for it to be subject to MIF or interchange-type regulation in any part of its Australian business. MIFs of Visa and MasterCard have been regulated or prohibited in Australia, EU countries and elsewhere because the way in which these fees have been set offends basic principles of competition law that

forbid competitors to fix prices. American Express does not have MIFs and has engaged in no anticompetitive or unlawful conduct in Australia. Interchange regulation of the dominant schemes was introduced to solve a problem that had arisen uniquely in those schemes.

50. Subjecting American Express to the same pricing caps as the dominant schemes will enable the latter to grow even bigger than the 81% share they currently enjoy, to recover and probably exceed their illegally-obtained market shares that they enjoyed at the start of the reform process. With BankCard having exited the market and EFTPOS openly fearing for its own survival, American Express questions what public interest will be served by a further intervention to forcibly reduce the market share of the only surviving viable competitor to the duopoly.
51. American Express also rejects calls from Visa for changes to the Payment Systems (Regulation) Act to change the definition of *payment systems* and institute a licensing system, as legally unsound and self-serving. The advantage of the current *designation*-based construct of the Act is precisely that it does not subject every payment system to the same regulation but allows the regulator to identify and regulate, when the public interest requires, new payment systems that emerge with the accelerating evolution of technology. Visa's proposal to amend the Act to include a licensing system for all payments systems is a heavy-handed and unnecessary change, once again conveniently overlooking the duopoly's own anticompetitive conduct that triggered the RBA's original intervention, as well as the multiple investigations and enforcement actions it has undergone and still faces around the world.
52. If all payment schemes are subject to price caps in Australia, the resulting entrenchment or increase in the >81% credit card share of the dominant schemes will create an effective barrier to entry to relatively new schemes such as China Union Pay which may be expected to play an increasing role in the world of international payment systems as China's economy continues to rise and its citizens travel overseas in increasing numbers. Creating such barriers would be undesirable for reasons both of competition and trade policy. Furthermore, price caps on American Express issuer's rates will have no impact on merchant service fees charged by American Express, which are determined independently of, and are not linked to, its GNS issuer's rates.
53. In summary, American Express objects strongly to calls for public resources to be applied in support of the dominant card schemes' overreaching private agenda to entrench or increase their overwhelming market power. The Payment System (Regulation) Act requires no amendment, the RBA has acknowledged that it has enough power to regulate the payment system³², card schemes have the wherewithal to apply their own rules and American Express asks only to be spared any further regulatory interventions which it has done nothing to deserve.
54. However, American Express submits that there is a case for greater transparency and public information about (a) shares of payment schemes across credit and debit and (b) fees disclosed to merchants on merchant statements.

-
- a) Scheme share statistics: The RBA’s current practice is to combine the respective credit card segment shares of the three-party and four-party schemes and to publish no share data for the debit card segment. American Express recommends that the shares of each payment scheme should be published by the Reserve Bank on a monthly basis for the credit and debit card segments. This would enable regulators, commentators and the public to enjoy a clearer understanding of the relative standing of the different networks across the whole card payments sector and whether/how this is changing over time.
- b) Merchant fees: The complexity of Visa and MasterCard interchange rate tables and the widening range of fees for different types of cards mean that many merchants lack clarity on what it actually costs them to accept a particular transaction. Regulators in other countries, including the European Union and Canada, have favoured rules prescribing standard minimum data to be supplied by acquirers to merchants, to enable the recipients to better understand their costs of accepting different cards. American Express submits that similar regulation in Australia for schemes that set different prices for different types of cards and transactions within the scheme would enhance pricing transparency for merchants. It would also enable schemes to more effectively enforce their own rules, rather than trying to outsource this to the government at the cost of the taxpayer.

¹ Visa Submission to the Australian Financial System Inquiry (FSI), 30 March 2014. MasterCard Submission to FSI, 31 March 2014.

² Reserve Bank of Australia, Table: C2- Market Shares of Credit and Charge Card Schemes

³ Visa Submission to FSI, page 15.

⁴ MasterCard Submission to FSI, page 11.

⁵ Visa Inc. S-1 Registration Statement with Securities & Exchange Commission, Risk Factors, page 18:

“Risks Related to Our Business Legal and Regulatory Risks

Interchange fees are subject to significant legal and regulatory scrutiny worldwide, which may have a material adverse impact on our revenues, our prospects for future growth and our overall business.

Interchange represents a transfer of value between the financial institutions participating in an open-loop payments network such as ours. Although we administer the collection and remittance of interchange fees through the settlement process, we generally do not receive any portion of the interchange fees. Interchange fees are often the largest component of the costs that acquirers charge merchants in connection with the acceptance of payment cards. We believe that interchange fees are an important driver of system volume.

As the volume of card-based payments has increased in recent years, interchange fees, including our default interchange rates, have become subject to increased regulatory scrutiny worldwide. We believe that regulators are increasingly adopting a similar approach to interchange fees, and, as a result, developments in any one jurisdiction may influence regulatory approaches in other jurisdictions. “

⁶ Federal Reserve Bank of Kansas City, Public Authority Involvement in Payment Card Markets: Various Countries, August 2013 Update, Fumiko Hayashi. Part 1 of the document is a list of court proceedings and regulatory investigations relating to interchange and merchant service fees. The number 23 given above refers to interchange-related matters.

⁷ European Commission Decision of 19 December 2007, paragraphs 663-666

⁸ Judgement of the EU General Court of 24 May 2012 in Case T-111/08, para 259-

It must be held that in view of the two factors mentioned above, namely the retention, after the IPO, of the banks' decision-making powers within the MasterCard payment organisation and the existence of a commonality of interests between that organisation and the banks on the issue of the MIF, the Commission was legitimately entitled to take the view, in essence, that despite the changes brought about by MasterCard's IPO, the MasterCard payment organisation had continued to be an institutionalised form of coordination of the conduct of the banks. Consequently, the Commission was fully entitled to characterise as decisions by an association of undertakings the decisions taken by the bodies of the MasterCard payment organisation in determining the MIF.

⁹ The four conditions for exemption, prescribed by Article 81 (3) of the EU Treaty are that an agreement: (a) contributes to improving the production or distribution of goods or to promoting technical or economic progress, while (b) allowing consumers a fair share of the resulting benefits, but does not (c) impose on the undertakings concerned restrictions that are not indispensable to the attainment of these objectives; or (d) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

¹⁰ European Commission media releases IP/13/314 and IP/14/497

¹¹ More particularly, Visa MIFs for all cross-border transaction in the EEA, and for domestic transactions in eight EU Member States (Belgium, Hungary, Ireland, Italy, Luxembourg, Malta, the Netherlands and Sweden).

¹² <http://www.comcom.govt.nz/business-competition/competition-enforcement-responses/commerce-act-enforcement-response-register/detail/665>

¹³ ACCC Media Releases of 4 September 2000 ("ACCC alleges price fix by bank") and 21 March 2001 ("ACCC recommends Reserve Bank consider using powers to reform credit card schemes").

¹⁴ Reform of Credit Card Schemes in Australia - A Consultation Document, Reserve Bank of Australia, December 2001. Section 5.3 on pp117ff

Competition between four party and three party schemes¹⁴

The credit card schemes and their members have argued that, as a matter of principle, it is inappropriate for the Reserve Bank to set a standard for interchange fees in the designated credit card schemes without also "regulating" the three party card schemes.¹⁹⁹ One submission, for example, has characterised the setting of such a standard as asymmetric regulation which is "applied to a firm or group of firms due to some characteristic that distinguishes them from unregulated firms and for no other substantial reason."²⁰⁰ This mis-states the reasons for the Reserve Bank's proposed use of its payments system powers. There is a substantial difference between the designated credit card schemes and the three party card schemes with respect to interchange fee setting. In the Bankcard, MasterCard and Visa credit card schemes, interchange fees are set collectively by the financial institutions that are members of these schemes, but that are otherwise competitors in providing credit card services to cardholders and merchants. The ACCC has reached the view that this behaviour is a breach of the Trade Practices Act 1974. American Express and Diners Club, on the other hand, do not have collectively determined interchange fees.²⁰¹ Whether they have an internal transfer mechanism or "implicit" interchange fee is not relevant; the three party card schemes do not have a process under which competitors collectively agree to set a price which then affects, in a uniform way, the prices each of the competitors charges to third parties. For this reason, the Reserve Bank saw no case on public interest grounds to designate the three party card schemes to deal with issues relating to collective fee setting (or restrictions on entry). However, the three party card schemes impose the same restrictions on merchant pricing as the designated credit card schemes. The Reserve Bank will therefore be consulting with the three party card schemes on why they should not meet the proposed standard on merchant pricing. Submissions have also argued that a standard for interchange fees in the designated credit card schemes will prevent these schemes from being able to compete effectively with the three party card schemes. This raises the question of the nature of competition between four and three party card schemes in Australia. On the basis of network size, the four party credit card schemes would appear to have a dominant market position compared with the smaller three party card schemes. Visa has argued that there are significant network effects in credit card schemes and that the size of its network makes it particularly appealing to both cardholders and merchants: "... the fact that more merchants accept VISA than AMEX means that consumers facing the same terms and conditions of use for each card would prefer to carry a VISA card than an AMEX card. Similarly, the fact that there are more VISA cardholders makes accepting VISA cards more attractive to merchants than accepting AMEX cards, even if the terms and conditions of accepting these cards were identical."²⁰² There

are a number of respects in which the four party card schemes have a position of network dominance in Australia.

Firstly, Bankcard, MasterCard and Visa account for around 92 per cent of credit and charge cards on issue, and for around 85 per cent of the value of credit and charge card transactions. Secondly, around 85 per cent of American Express or Diners Club cardholders also have a Bankcard, MasterCard or Visa credit card but only around ten per cent of cardholders in these latter schemes also have an American Express or Diners Club card.²⁰³ Thirdly, the number of merchants in Australia that accept cards issued by members of the four party credit card schemes appears to be about double the number of merchants that accept American Express cards; the merchant base of Diners Club appears to be smaller again.²⁰⁴ Network dominance in this form places the designated credit card schemes at the centre of the credit and charge card market in Australia. Their behaviour will have a significant impact on market outcomes, particularly compared to the behaviour of the three party card schemes that lack network size. If a standard for interchange fees resulted in lower merchant service fees in the designated credit card schemes, normal competitive processes would ensure that competitors would have to react. Merchants would have an even stronger preference than at present for cards of the four party card schemes. They would be likely to seek to renegotiate merchant service fees charged by American Express and Diners Club; alternatively, if fees did not adjust, some might stop accepting the latter cards altogether, a viable option because merchants may not fear losing many sales in view of the relatively small network size of American Express and Diners Club. These schemes would therefore be under strong competitive pressure to respond by lowering their merchant service fees to protect their merchant base.

¹⁵ Deloitte Access Economics, Competitive neutrality in Australian payments markets

¹⁶ Reserve Bank of Australia, Table C2- Market Shares of Credit and Charge Card Schemes.

¹⁷ Interchange tables published by Visa at <http://www.visa.com.au/aboutvisa/interchange/interchange.shtml> and MasterCard at www.mastercard.com.au/merchant/getting_started/interchange_rates.html

¹⁸ RBA media release 2005-02, 24 February 2005.

¹⁹ Ibid.

²⁰ Visa Submission to FSI, page 23

²¹ RBA Table C2 - Market Shares of Credit and Charge Card Schemes.

²² RBA Notes to Table C2:

*“The data report monthly market share data relating to the Bankcard, MasterCard, Visa, American Express and Diners Club card schemes. The Bankcard scheme closed in January 2007. The figures for ‘Bankcard, MasterCard and Visa’ for months up to and including January 2007 include Bankcard data. The series cover general-purpose credit cards and charge cards issued to individuals or businesses by reporting institutions in Australia. **The ‘Bankcard, MasterCard and Visa’ market shares include debit card transactions processed through the MasterCard or Visa networks before March 2008.** Reporting institutions include most Australian banks, building societies and credit unions, and certain other non-bank providers of card services.”*

²³ Between February 2008 and March 2008 the combined shares of Visa and MasterCard fell sharply from 84.2% to 82.5%, see RBA Table C2- Market Shares of Credit and Charge Card Schemes.

²⁴ Visa’s Submission to the FSI, page 25. MasterCard’s Submission to the FSI, page 19.

²⁵ RBA’s submission to the FSI, page 215

“The combined American Express and Diners Club share (by value) of all credit and charge transactions has risen by about 4 1/2 percentage points from its 2003 level. Since 2010, this share has been broadly stable at 19-20 percent. The share of these two schemes in all (debit, credit and charge) card transactions is unchanged since 2003.

²⁶ European Commission Decision of 19 December 2007, paragraph 636 and footnote 780.

²⁷ MasterCard Papers Australia January 2013- *A focus on debit*. Available from http://www.mastercard.com.au/mc_papers.html

²⁸ RBA Submission to FSI, footnote 13 on page 215.

²⁹ Report of the House of Representatives’ Standing Committee on Economics, Finance and Public Administration, June 2006, paragraphs 4.56 - 4.58.

³⁰ Eftpos Submission to FSI of 31 March 2014, page 2:

“Over the past 12 months, eftpos’ market share has been impacted by the adoption of contactless technology on scheme debit cards which automatically route these transactions to the international schemes and remove payment choice from both the consumer and merchant. This technology lock-out, combined with mandated issuance and acceptance by the international schemes, is having a material impact on the competitive landscape.”

³¹ Australian Financial Review, 10 April 2014, Comments by Bruce Mansfield, CEO of eftpos Australia:

Eftpos falls behind in payments

Australian Financial Review, Australia by Shaun Drummond

Companies and Markets - page 25 - 588 words - ID 248866779 - Photo: Yes - Type: News Item - Size: 365.00cm²

Shaun Drummond: Eftpos is scrambling to retain its relevance and regain market share as consumers switch to buying online and using contactless payments. Eftpos still carries the majority of card transactions, but its share of all card payments has fallen fast to around 45 per cent from 50.5 per cent in 2011. It has lost an even bigger share in what it does - debit payments falling from 83.5 per cent to 70 per cent in that period.

“For 25 years we had the safest, most convenient and efficient product out there,” said chief executive Bruce Mansfield. “Over the last number of years there have been innovations that mean our traditional volumes are at risk and if we don't act now I think our future is at risk.” Mr Mansfield said the competing priorities of its 14 owners - including the banks and Coles and Woolworths had hampered its belated race to upgrade its network to allow new payments methods. The country's domestic electronic payment network has just completed its first infrastructure overhaul in its 30year existence moving from a bilateral network that takes years to upgrade to a “hub” network that can be changed twice a year. It will begin rolling out its software onto chip cards from June and hopes to have an online payment option available some time in 2015. Visa said in March that 40 per cent of its face-to-face transactions are now done using PayWave, with the number of transactions jumping from 28 million in September to 40 million in January. As for MasterCard's equivalent, PayPass, all contactless payments automatically use the global card companies networks. Eftpos is trialling contactless payments using mobile phones and will begin trials of a purely online payment method in the last quarter of 2014. Exactly what form the purely online payment method will take is still being worked out Mr Mansfield said Eftpos would at least have to be an option alongside many others in the various e-wallets being offered, including PayPal. Critics say Eftpos has been woefully slow. Payments consultant Grant Halverson from McLean Roche said Eftpos “risks becoming irrelevant”. However, he said it should be in its owners' interests to back it so they don't become completely dependent on the global card companies.

“As a CEO of a bank I wouldn't want to be beholden to an offshore entity that you can't control,” he said. “That's the Canadian's view with Interac (Canada's Eftpos equivalent). It has proved correct because they are now moving that into digital - the Mint in Canada is actually trialling a digital currency and that's where Eftpos should be.” Mansfield says Eftpos costs less than the card schemes for business and customers. He called on the Murray inquiry to recommend merchants get a choice of which network to use and for consumers to see the costs of different payment choices before they choose.

At the moment the network is chosen based on whether a customer presses savings or cheque for eftpos or credit. Banks commonly offer lower fees for using the credit network because usually the merchant has to pay them more to use this method. “It is all about transparency and choice,” he said. “As long as that's there I am happy to compete. But I can't even compete because of a technology lockout - and contactless is a good example where on a scheme debit card, the transaction goes to Visa - there is no choice.” For 25 years we had the safest, most convenient and efficient product Bruce Mansfield, Eftpos Caption Text: Eftpos boss Bruce Mansfield admits if his company doesn't act now their future is at risk, Photolouise Kennerley

³² RBA Submission to the Inquiry, page 8-

“The Reserve Bank has exercised its payments system powers with a focus on improving competition and efficiency in payment systems, consistent with maintaining stability and effective management of risk. The Bank considers that these powers leave it well placed to deal with challenges arising from the likely future evolution of the payments system.”



Public Authority Involvement in Payment Card Markets: Various Countries

August 2013 Update[†]

Prepared by Fumiko Hayashi

Payments System Research Department

Federal Reserve Bank of Kansas City

[†] The original tables appeared in Bradford, Terri and Fumiko Hayashi. 2008. "Developments in Interchange Fees in United States and Abroad," Federal Reserve Bank of Kansas City Payments System Research *Briefing*, April issue. Alan Frankel provided helpful comments for this update.

1. Interchange and Merchant Service Fees

a. Actions taken by public authorities

Country	Credit Card	Debit Card
Argentina	<p>1999: Law 25.065 for Credit Cards is enacted. The law establishes norms that regulate various aspects related to the credit, debit, and retail card systems. Among these norms is the setting of limits on the ability to implement price discrimination in merchant fees.</p> <p>2005: Law 25.065 is amended with Law 26.010, which requires merchant acquirers to charge the same merchant discount rate to businesses within the same category. The maximum merchant discount rate is set at 3% for credit cards and 1.5% for debit cards.</p>	
Australia	<p>2003: The Reserve Bank of Australia (RBA) mandates Bankcard, MasterCard, and Visa to set interchange fees on a cost-based benchmark.</p> <p>2009: RBA continues interchange regulation.</p>	<p>2006: RBA introduces interchange standards for the EFTPOS and Visa Debit systems.</p> <p>2009: RBA revises EFTPOS interchange fee standard for multilateral interchange fees.</p> <p>2013: RBAs implements the new EFTPOS interchange fee standards.</p>
Austria	<p>2003: The Austrian Cartel Court fines Europay Austria, who runs Maestro debit card payment system. The Court declares that Europay formed an illegal cartel with almost all Austrian banks with respect to a provision in the payment card contract and held interchange fees excessively high, which the Court views as an abuse of Europay’s dominant position.</p> <p>2006: Following the European Commission’s interim reports on the retail banking industry, Austrian banks agree to review arrangements for setting interchange fees and announce that a reduction can be expected. They will also take steps to foster genuine competition in acquiring between Europay Austria and Visa Austria.</p> <p>2007: Europay appeals to the Austrian Supreme Court. The Supreme Court confirms the Cartel Court’s judgment and increases the fine from €5 million to €7 million, noting “undue enrichment” accrued to Europay Austria during the time of the anticompetitive behavior.</p>	
Belgium	<p>2006: The Belgian Competition Council accepts commitments offered by Banksys to have the investigation (which began in 2000) of its allegedly abusive conduct in electronic payment services and debit card terminals markets closed. The commitments include separate contracts for acquiring services and terminals, relaxation of exit terms for terminal rental agreements, and a number of price reductions.</p>	
Brazil	<p>2006: In May, Banco Central do Brasil (the Central Bank of Brazil) issues Directive 1/2006, which focuses the payment cards</p>	

	<p>industry. The Directive does not establish either obligations or prohibitions and does not mandate any sanctions. In June, Banco Central do Brasil's Economic Law Office and the Secretariat for Economic Monitoring agree to cooperate in order to collect payment card industry data and to coordinate public policy actions. In September, payment card industry data collection began.</p> <p>2009: The Brazilian competition authority investigates the anti-competitive behavior of Redecard and Visa-Cielo as a means of reducing merchant discount fees.</p> <p>2010: Banco Central do Brasil publishes Report on the Brazilian Payment Card Industry. The Secretariat of Economic Law continued to investigate the possibility of a violation of the economic order due to the anti-competitive behavior of acquirers. An agreement was signed in which acquirers made a commitment to end exclusivity in their credit and debit card schemes.</p> <p>2011: Banco Central do Brasil publishes Statistical Update on the Brazilian Payment Card Industry, which concludes that despite the end of exclusivity, there was no significant change in the market share of the two largest acquirers (Visa-Cielo and Redecard).</p>	
Canada	<p>2009: In March, the Senate Committee on Banking, Trade and Commerce announces that it will move forward with an investigation of Canada's credit and debit card system. In June, the investigation results are published as a report.</p>	<p>Mid 1990's: A consent order from the Competition Bureau of Canada allows Interac to set its own interchange fee, but since its establishment, Interac has set its interchange fee at zero.</p>
Chile	<p>2005: The Chilean Antitrust Court admits a complaint filed by the National Economic Prosecutor alleging abuse of a dominant position by Transbank, the acquirer of all credit and debit cards issued in the country. The Court imposes a fine of approximately \$56,000. The National Economic Prosecutor requested, among other things, the modification of Transbank's price structure in such a way that it would be public, objective, and based on costs. A partial understanding between the parties, requiring Transbank to reduce merchant fee ceilings and present a self-regulating plan for setting prices, finally settles the issue.</p>	
China	<p>2002: The People's Bank of China sets the maximum merchant fee rates and the division of the merchant fee which consists of the interchange fee, switch fee, and merchant acquirer fees (so called the 8:1:1 rule).</p> <p>2011: The Chinese Ministry of Commerce proposes a cap on interchange fees – 0.3% of the sale up to 100 yuan (US\$15 or 12 euro). The proposal also includes a cap for switch fees: China UnionPay (the country's only card network) cannot charge merchants more than 0.05% on credit card sales with a maximum of 5 yuan per transaction.</p> <p>2012: The State Council approves a change to the decade-old standards on merchant fees which will reduce most merchant fees by one-fourth or more effective February 25, 2013.</p>	
Colombia	<p>2004: The Superintendent of Industry and Commerce, Colombia's competition authority, passes the new Inter-bank</p>	

	<p>Exchange Tariff, allowing merchants to negotiate fee rates with merchant acquirers.</p> <p>2006: Credibanco (a Visa issuer) is required to exclude certain costs included in its fee computation that were judged not to correspond exclusively to payment card services offered to merchants.</p>	
Denmark	<p>1990: The Act of Certain Payment Instruments sets a cap on merchant service charges (MSC) on internationally-branded credit/debit cards issued by Danish banks for domestic transactions at 0.75% of transaction value or 1.25% of transaction value with a minimum of DKK 1.95 on the Internet.</p>	<p>1990: The Act of Certain Payment Instruments sets Dankort MSC to be zero.</p> <p>2003: An amendment to the Act introduces a positive MSC to Dankort transactions and reduces the fees on Maestro and Visa Electron from 0.75% to 0.4%, with a maximum of DKK 4.</p> <p>2005: An annual fee per retailer replaces Dankort MSC.</p>
European Union	<p>2002: The European Commission (EC) reaches an agreement with Visa to reduce its cross-border interchange fees by December 2007. The benchmark for its interchange fees is to be set at the level of the cost of supplying Visa payment services and cannot exceed the cost of the services which issuing banks provide, wholly or partly, to the benefit of merchants.</p> <p>2007: In December, EC rules that MasterCard's interchange fees are illegal.</p> <p>2008: In March, MasterCard files an appeal of the EC decision.</p> <p>2009: In April, EC and MasterCard reach an interim agreement, setting MasterCard interchange rates at, on average, 0.3% for credit cards and 0.2% for debit cards (effective July 1, 2009). EC also sent a Statement of Objections to Visa asserting its preliminary view that multilateral interchange fees (MIFs) directly set by Visa violate European Antitrust rules (Article 81 EC Treaty and Article 53 EEA Treaty).</p>	
		<p>2010: In April, Visa Europe proposes to cap the weighted average MIF for consumer immediate debit card transactions at 0.2%. The cap is applicable to cross-border transactions within EEA and, separately, to domestic transactions in each EEA country where MIFs are either set directly by Visa Europe (Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, and Sweden) or the Visa Europe cross-border rates would apply by default. In December, EC drops its investigation into interchange fees for immediate debit.</p>

	<p>2012: In May, the General Court of the EU confirms the EC's 2007 decision prohibiting MasterCard's interchange fees. In July, the European Commission submits a supplementary statement of objections to Visa Europe regarding its use of multilateral interchange fees in the EEA. The Commission alleges that these MIFs restrict competition and put upward pressure on consumer prices.</p> <p>2013: In April, the EC opens a formal investigation into whether several of MasterCard's inter-bank fees and practices violate EU antitrust rules. The proceedings identify MasterCard's inter-bank fees on payments made by cardholders from non EEA countries and its cross-border acquiring rules as items of particular concern. In July, the EC proposes a regulation to cap interchange fees for four-party scheme consumer debit and credit card transactions at 0.2% and 0.3% respectively. These caps would initially apply to cross-border transactions but after the transition period, they would apply to both cross-border and domestic transactions.</p>	
France	<p>1990: The Paris High Court rules that methods for determining interchange fees could be accepted in accordance with the Competition Council's statement of objections.</p> <p>2011: In July, the French Competition Authority (FCA) closes its investigation concerning interchange fees by accepting the commitments offered by the Groupement des Cartes Bancaires (a syndicate of banks issuing payment cards). Among other things, the commitment includes a reduction in the interchange fees from 0.47% to 0.3% on average for all cards. The period of the commitments is four years beginning October 1, 2011. During this period, a steering committee charged by the FCA will be in charge of devising a methodology to revise fees at the expiration of the commitments. The FCA turns its attention to the interchange fees set by other payment card systems, including MasterCard and Visa.</p>	
Greece		<p>2008: The Hellenic Competition Commission accepts commitments offered by banks that aim to reduce the level of interchange fees in response to objections expressed in the Directorate General for Competition's Report. In addition, the banks will take steps to reduce proportionally the level of commissions charged to consumers for services rendered. The commitments are effective until 1/08/2010.</p>
Hungary	<p>2006: Gazdasági Versenyhivatal (GVH, the competition authority of Hungary) considers intervening in the payment card market. Interchange fees are regarded as too high compared to costs, especially in the case of debit cards. Price discrimination between 'on-us' (acquirer=issuer) and 'foreign' (acquirer≠issuer) transactions is considered to have adverse effects on issuer competition.</p>	
	2008: GVH launches an antitrust probe against several credit	

	<p>card companies, including MasterCard, Visa, and POS operators under suspicion of collusion on prices and practices to keep competitors at bay.</p> <p>2009: GVH imposes fines upon Visa Europe, MasterCard and top commercial banks, ruling they have inhibited competition by forming an illegal bank card interchange-fee cartel.</p>	
India		<p>2012: To promote the use of debit cards, the Reserve Bank of India caps the merchant discount rate on debit card transactions at 0.75% of the transaction amount for values at or below Rs 2000 (US\$35) and at 1% of the transaction amount for values above Rs 2000. These caps take effect September 1, 2012.</p>
Israel	<p>2006: The Antitrust Tribunal in Israel reaches an agreement with banks to reduce interchange fees from 1.25% to 0.875% by 2012.</p> <p>2011: Credit card companies adopt the Tribunal's methodology for calculating interchange fees and agree on a reduction in the fees from 0.875% to 0.7% by July 2014.</p>	
Italy	<p>2010: The Italian Competition Authority (ICA) fines MasterCard and eight banks for allegedly using licensing agreements to keep interchange fees high and passing those charges on to merchants. The order requires MasterCard to provide economic justification for its fees and banks to revisit the terms of their contracts with merchants. MasterCard and the banks involved are given 90 days to show that the allegedly anti-competitive activities have ceased.</p>	
		<p>2010: The ICA accepts commitments offered by PagoBANCOMAT (the dominant Italian network) in response to an investigation opened in October 2009. The commitments aim to reduce the level of MIFs for national transactions using national PagoBANCOMAT branded debit cards and include: a 4% reduction of MIFs, a pledge to not increase MIFs in the future, and a re-definition of MIFs in accordance with ICA.</p>
Latvia	<p>2011: The Latvian Competition Council decides that 22 commercial banks have infringed the Competition Law by participating in multilateral interchange fee agreements and imposes fines on those banks.</p>	

Mexico	2006: The Bank of Mexico and the Mexican Bankers Association agree to reduce interchange fees.	
Netherlands		2004: The Netherlands Competition Authority (NMa) fines Interpay, which operates the debit card system, and member banks for charging excessive merchant fees for PIN debit transactions. 2005: NMa withdraws the accusation and the fine imposed on Interpay but upholds the fine on the banks.
New Zealand	2007: Proceedings are initiated by the New Zealand Commerce Commission against Visa, MasterCard and member institutions of the two schemes, alleging price-fixing in the setting of interchange fees. 2009: The Commission agrees with Visa (on August 12) and MasterCard (on August 24) to settle credit card interchange fee proceedings. The agreements require both networks to alter the scheme rules in New Zealand, allowing merchants to surcharge, nonbanks to become acquirers, and card issuers to individually set interchange fees (the networks set the maximum interchange fee rates).	
Norway		The general position of authorities regarding the introduction of new payment systems in Norway has been that payers should cover costs. This position can be seen as early as the 1974 report from the Payment Systems Committee.
Panama	2003 - 2004: Under the 1998 banking law, the Superintendent of Banks issues regulations for banks that issue and manage credit cards. These regulations establish procedures for approving a credit card and authorize the charges for commissions and other related items.	
Poland	2007: The Polish Office of Competition and Consumer Protection (OCCP) orders banks to discontinue their multilateral interchange fee agreements. 2008: In November, the Court of Competition and Consumer Protection (CCCP) overturns the OCCP's decision on	

	<p>interchange fees, holding that the participation of 20 banks in an agreement fixing the fee levels does not constitute an infringement of Art 81.1 EC nor equivalent national provision.</p> <p>2010: In April, the Court of Appeal repeals the CCCP's decision and submits it back to CCCP for review.</p> <p>2012: In March, the National Bank of Poland (NBP) publishes <i>Program of card charges reduction in Poland</i> with the aim of lowering interchange fees via a non-regulatory compromise to 0.70% for debit cards and 0.84% for credit cards by 2017. Due to insufficient participation, the proposal fails by July, and the NBP takes steps to lower rates through the legislature instead.</p>
Portugal	<p>2006: Following the European Commission's (EC) interim reports on the retail banking industry, Portuguese issuers and acquirers meet some of the EC's concerns by reducing domestic interchange fees and removing preferential bilateral domestic interchange fees.</p>
South Korea	<p>2005: The Korean Fair Trade Commission rules that BC Card's (South Korea's four-party scheme credit card) joint pricing of merchant service charges is a cartel, imposes a fine of 10.092 billion Korean won, and issues corrective measures.</p> <p>2011: The Financial Services Commission (FSC) announces comprehensive measures to reform the structure of the credit card market, including the merchant fee system. Card companies are to prepare a reasonable system by the first half of 2012.</p> <p>2012: The National Assembly approves The Revision of the Credit Finance Law (effective in January 2013). Among other things, this revision requires credit card companies to apply special merchant fee rates determined by FSC to merchants with annual revenue <i>under</i> a certain level (determined by presidential decree) and to provide relevant information to authorities.</p>
Spain	<p>2005: The Spanish Competition Tribunal denies authorizing the interchange fee arrangements of the Spanish card schemes. In December, Spanish card networks and merchants reach an agreement—coordinated by the Spanish Ministry of Industry, Tourism and Trade—for interchange fees to be reduced immediately and progressively (effective in November 2006).</p> <p>2009: The maximum limits for credit and debit card interchange fees are extended for the 2009/2010 period. The Council of the National Competition Commission (CNC) concludes that applying the maximum limits derived from the cost studies to intra-system interchange fees would not be appropriate.</p> <p>2010: In December, the CNC Council declares the monitoring of the agreement closed to the extent that it expired on</p>

	December 31, 2010. Since January 2011, Spanish card schemes have been free to decide upon the level of default interchange fees, while still enduring maximum transparency.	
Switzerland	<p>2005: The Swiss Competition Commission and credit card issuers agree to reduce interchange fees from 1.65-1.70% to 1.30-1.35%.</p> <p>2009: The Commission again opens an investigation into interchange fees for Visa and MasterCard credit cards.</p> <p>2010: The Commission sets the maximum interchange fee for 2010 at 1.058%.</p> <p>2011: The Commission reduces the maximum interchange fee to 0.990% for 2011.</p>	<p>2009: The Commission opens a preliminary investigation into Maestro's introduction of an interchange fee.</p> <p>2010: The Commission opens a preliminary investigation into "Debit MasterCard's" introduction of a domestic fallback interchange fee.</p> <p>2011: The Secretariat of the Competition Commission closes preliminary investigations. It concludes that an interchange fee for Maestro card transactions could violate the Act on Cartels while an interchange fee for Debit MasterCard might be possible within certain limits, e.g., its market share remains below 15% and the interchange fee is, on average, no more than 0.20 Swiss francs per transaction.</p>
Turkey	<p>2005: The Turkish Competition Authority (TCA) makes a decision on Interbank Card Centre (BKM)'s clearing commission rate by member banks. The decision states that, in order to grant exemption to the clearing commission formula proposed by the consultancy firm on behalf of BKM, the formula must be adjusted for certain cost items.</p> <p>2009: BKM requests an indefinite exemption for setting joint interchange commission rates for credit card but the TCA decides that an individual exemption might be granted to the joint rates for three years if certain conditions are met.</p>	
United States		<p>2011: The Federal Reserve Board sets the debit card interchange fee standards for regulated banks whose asset size exceeds \$10 billion (at the bank holding company level). Debit cards issued by banks with less than \$10 billion in assets and reloadable prepaid cards are exempted from the interchange fee standards.</p>
Venezuela	<p>2008: In December, Resolución N° 08-12-01 is passed (effective January 2009) which states that the Board of the Central Bank of Venezuela will set limits on merchant discount rates and trade commissions for payments made by debit and credit for each merchant category; these rates will be reviewed annually.</p>	

b. Investigations initiated

Country	Credit	Debit
Estonia	2012: The Estonian Competition Authority terminates the proceedings of the interchange fees for card payments after a number of reductions in interchange fees made by banks.	
Finland	Mid 2000s: The Finnish Competition Authority launches an investigation into interchange fees on EMV cards (0.31%). Traditional magnetic stripe cards charge merchants between zero to 0.05 euro per transaction.	
Germany	2006: The Bundeskartellamt (the competition authority in Germany) receives a legal complaint from the German Retail Association, alleging that fees charged to merchants for MasterCard and Visa transactions, which average 150 basis points, prevent widespread credit card acceptance in Germany.	
Norway	2004: On the initiative of the Ministry of Finance, Kredittilsynet (the financial supervisory authority) establishes a project group to report on competitive conditions in the Norwegian market for international payments and charge cards. 2005: Norges Bank (the central bank of Norway) states in its 2005 Annual Report that the regulation of interchange fees is also being considered.	
Romania	2011: The Romanian Competition Council (RCC) opens a sector inquiry, targeting four main areas, including setting the interchange fees on payment cards. 2013: The RCC publishes the report of the inquiry and finds the interchange fees of Visa and MasterCard are higher in Romania than those in other European countries.	
South Africa	2004: The Task Group for the National Treasury and the South African Reserve Bank recommends that the Competition Commission investigate the possibility of a complex monopoly in the governance and operation of the national payment system. 2006: Following the findings in the report <i>The National Payment System and Competition in the Banking Sector</i> , the Commission begins a public inquiry into bank charges and access to the payment system. 2008: In December, the inquiry report is published, recommending regulation in the setting of interchange fees.	

United Kingdom	<p>2005: In September, the Office of Fair Trading (OFT) finds that MasterCard's interchange fee arrangements are illegal. In October, the OFT issues a statement of objections against Visa regarding its agreement on multilateral interchange fees.</p> <p>2006: In February, OFT launches a new investigation against MasterCard. In June, the OFT's finding on MasterCard is appealed and OFT consents to its decision being set aside by the Competition Appeal Tribunal, due to a change made by MasterCard in setting interchange fees. OFT refocuses on credit card interchange fees set by MasterCard and Visa.</p>	2007: OFT expands the scope of its investigation into interchange fees to include immediate debit cards.
	2012: The UK government submits a response to the Court of Justice in support of the European Commission's decision and the General Court judgment (regarding MasterCard).	

Annex. Zero interchange fee schemes

Country	Credit	Debit
Belgium		Zero interchange fee (Bancontact/Mister Cash)
Canada		Zero interchange fee (Interac)
Denmark		Zero interchange fee (Dankort)
Finland		Zero interchange fee (Pankkikortti)
Germany		Zero interchange fee (ELV, and POZ which was phased out in 2006)
Luxembourg		Zero interchange fee (Bancomat)
Netherlands		Zero interchange fee (PIN) until 2006
New Zealand		Zero interchange fee (EFTPOS)
Norway		Zero interchange fee (Bank-Axcept)

2. Surcharges and Discounts (Actions taken by public authorities)

Country	Credit	Debit
Australia	2003: Prohibition on surcharging is lifted. 2012: The Reserve Bank of Australia changes the surcharging Standards, which allows credit and scheme debit card networks to cap the amount of surcharges at amounts reasonably related to merchants' cost of card acceptance. The Standards would take effect in March 2013.	2006: Prohibition on surcharging is lifted for Visa and MasterCard signature
Austria	As of 2011, surcharging is prohibited but offering discounts is allowed.	
Belgium	As of 2011, surcharging is allowed.	
Bulgaria	As of 2011, surcharging is allowed, but the payment instruments for which surcharges may be requested are specified.	
Canada		1996: The ban on surcharging for Interac transactions is lifted through a consent order by the Competition Bureau of Canada.
	2010: The Ministry of Finance's code of conduct for credit and debit cards requests that payment card network rules ensure that merchants are allowed to provide discounts for different methods of payment. 2013: The Competition Tribunal dismisses the case brought in 2010 by the Commissioner of Competition against MasterCard and Visa over no-surcharge rule and notes that the proper solution to the issue is a regulatory framework.	
Czech Republic	As of 2011, surcharging is allowed.	
Cyprus	As of 2011, surcharging is allowed, but the payment instruments for which surcharges may be requested are specified.	
Denmark	2011: In October, the prohibition on surcharging for domestic credit cards is lifted.	
Estonia	As of 2011, surcharging is allowed.	
European Union	2007: The Payment Services Directive (PSD) does not allow payment service providers to prevent the payee from requesting from the payer a charge or from offering him a reduction for the use of a given payment instrument. However, the PSD allows Member States to forbid or limit the right to request charges, taking into account the need to encourage competition and promote the use of efficient payment instruments.	

	<p>2009-2010: The PSD is implemented into national law.</p> <p>2013: The European Commission proposes revisions to the Payment Services Directive (PSD2), which bans surcharges on the interchange-fee-regulated cards but allows surcharges on non-regulated cards (e.g., corporate cards and three-party scheme cards).</p>
Fiji	2012: After several merchants were found to be applying surcharges to credit card users despite the practice being prohibited by Fiji's Merchant Services Agreement, the Reserve Bank of Fiji intervenes by upholding the "No Surcharge Rule" for both credit and debit card payments effective November 1, 2012.
Finland	As of 2011, surcharging is allowed but the amounts of surcharges are required to be reasonable and not to exceed the payee's actual costs.
France	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Germany	As of 2011, surcharging is allowed.
Greece	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Hungary	As of 2011, surcharging is allowed, but the payment instruments for which surcharges may be requested are specified.
Ireland	As of 2011, surcharging is allowed.
Israel	<p>1993: The ban on surcharging is lifted.</p> <p>As of 2005, most merchants do not surcharge; some deep discount retailers offer cash discounts.</p>
Italy	As of 2011, surcharging is prohibited, and offering discounts is limited to certain payment instruments.
Latvia	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Lithuania	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Luxembourg	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Malta	As of 2011, surcharging is not prohibited.
Mexico	1993: The Mexican Competition Commission reaches an agreement with a number of banks, forbidding them from prohibiting merchants from offering discounts for cash payments in their acquiring contracts.
Netherlands	1997: The ban on surcharging is lifted.
New Zealand	2009: Agreements between the Commerce Commission and Visa/MasterCard require Visa/MasterCard to allow merchants to surcharge.
Poland	As of 2011, surcharging is allowed.

Portugal	As of 2011, surcharging is allowed, but the amount of surcharges is determined either by legislation or the payee.
Romania	As of 2011, surcharging is prohibited, but offering discounts is allowed.
Slovakia	As of 2011, surcharging and offering discounts are limited to certain payment instruments.
Slovenia	As of 2011, surcharging is allowed.
Spain	As of 2011, surcharging is allowed.
Sweden	1995: The ban on surcharging is lifted. As of 2011, surcharging is generally prohibited but offering discounts is allowed.
Switzerland	2005: The ban on surcharging is lifted.
United Kingdom	1989: The ban on surcharging is lifted. 2011: In December, HM Treasury announces that the government will ban excessive surcharges on all forms of payment, and extend the ban across most retail sectors. The announcement also states that the UK will become the first European country to act by implementing forthcoming European legislation early to ban this practice before the end of 2012. 2012: In December, The Consumer Rights (Payment Surcharges) Regulations 2012 ban merchants from charging consumers more than the cost borne to them for accepting a given means of payment. The regulations would take effect in April 2013.
United States	2010: The Justice Department reaches a settlement with Visa and MasterCard to eliminate rules preventing merchants from offering consumers discounts, rewards, and information about card costs. 2011: In July, the settlement is approved by a federal judge. 2012: A settlement between merchants and Visa, MasterCard, and several large issuer banks requires Visa and MasterCard to allow merchants to impose surcharges on credit card transactions, subject to a cap and other consumer protection measures. The change would take effect in early 2013.

Sources:

Interchange and Merchant Service Fees

Argentina

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>
<http://www.protectora.org.ar/legislacion/ley-25065-tarjetas-de-credito/43/> (Spanish)
<http://www.1st-annapolis.com/interchange-world-difference>
<http://ir.americanexpress.com/phoenix.zhtml?c=64467&p=irol-reportsAnnualArchive>
<http://www.bcra.gov.ar/pdfs/marco/Marco%20Legal%20completo.pdf> (Spanish)

Australia

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>
<http://www.rba.gov.au/payments-system/reforms/cc-schemes/cc-fees-benchmark.pdf>
<http://www.rba.gov.au/media-releases/2006/mr-06-02.html>
<http://www.rba.gov.au/media-releases/2006/mr-06-08.html>
<http://www.rba.gov.au/payments-system/legal-framework/standards/interchg-visa-debit.pdf>
<http://www.rba.gov.au/media-releases/2009/mr-09-18.html>
<http://www.rba.gov.au/payments-system/reforms/debit-card-systems/201211-reg-frmwrk-eftpos-sys/pdf/fin-ref-ris-112012.pdf>

Austria

<http://www.oecd.org/dataoecd/36/33/34720199.pdf>
http://www.concurrences.com/article.php3?id_article=23935&lang=fr
http://www.concurrences.com/article.php3?id_article=14787
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/40>

Belgium

<http://www.freshfields.com/publications/newsletters/newsletter.asp?typeid=6&newsletterid=31&contentid=74>
http://www.concurrences.com/article.php3?id_article=12426#nb1
http://www.pseconsulting.com/pdf/articles/interchange/consequences_of_mif_mar05.pdf
http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf

Brazil

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>
<http://siteresources.worldbank.org/INTPAYMENTREMITTANCE/Resources/JoseMarciano.pdf>
<http://www.reuters.com/article/idUSN1427355720090715>
<http://www.reuters.com/article/idUSN1918952520100419>

Canada

<http://www.kc.frb.org/publicat/pscp/2005/Weiner-Wright.pdf>
http://www.kc.frb.org/publicat/pscp/2005/Regulatory_panel.pdf
<http://www.parl.gc.ca/40/2/parlbus/commbus/senate/com-e/bank-e/rep-e/rep04Jun09-e.pdf>
http://www.fin.gc.ca/n10/data/10-049_1-eng.asp

Chile

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>
<http://www.tdcl.cl/noticias/detalle.php?id=8> (unavailable as of February, 2012)

China

<http://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Documents/card-payments-aspac-0906.pdf>
http://ebusiness.mit.edu/research/papers/212_jhausman_chinaepayment.pdf
<http://www.paymentsource.com/news/Chinese-Ministry-Proposes-Capping-Merchant-Card-Acceptance-Fees-3008969-1.html>
<http://www.lexology.com/library/detail.aspx?g=ef4125ae-b93a-4fb3-9d72-3d36246157ce>

Colombia

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>
<http://www.consumidoresint.cl/novedades/detallenovedad.asp?id=1148001800> (unavailable as of November, 2007)

Denmark

<http://www.kc.frb.org/publicat/pscp/2005/Weiner-Wright.pdf>
http://www.forbrug.dk/fileadmin/Filer/FO_English/UK-betalingsmiddelov.pdf (unavailable as of February, 2012)
http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf
European Payment Cards Yearbook 2005-6.

Estonia

<http://www.konkurentsiamet.ee/?id=21231>

European Union

<http://www.kc.frb.org/publicat/pscp/2005/Friess.pdf>
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/260&type=HTML&aged=0&language=EN&guiLanguage=en>
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/462&format=HTML&aged=0&language=EN&guiLanguage=en>
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/224&format=HTML&aged=0&language=EN&guiLanguage=en>
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1684>
<http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cp120069en.pdf>
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/871>
http://europa.eu/rapid/press-release_IP-13-314_en.htm?locale=en
http://ec.europa.eu/internal_market/payments/docs/framework/130724_proposal-regulation-mifs_en.pdf
http://europa.eu/rapid/press-release_MEMO-13-719_en.htm?locale=en

Finland

Conroy, Victoria. 2009. "Finland plays its cards right," February 10, *Cards International*, *VRL Financial News*. www.vrl-financial-news.com
http://www.pseconsulting.com/pdf/articles/interchange/consequences_of_mif_mar05.pdf
http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf

France

European Payment Cards Yearbook 2005-6.
Judgment (Case A 318/02 SERVIRED Interchange fees)
http://www.autoritedelaconurrence.fr/user/standard.php?id_rub=389&id_article=1657
<http://www.cgsh.com/files/Publication/75ebe29a-10d7-4807-9972-537340418c50/Presentation/PublicationAttachment/815bf175-f645-449e-af6a-5a6bea2d5f4f/National%20Competition%20Report%20Q2%202011.pdf>

Germany

European Payment Cards Yearbook 2005-6.
http://english.zahlungsverkehrsfragen.com/subscribers/payments_at_the_pos.htm

Greece

http://www.epant.gr/img/x2/news/news172_1_1236245010.pdf

Hungary

http://www.gvh.hu/domain2/files/modules/module25/pdf/bankkartyahasznalat_2006.pdf
http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=133&m5_doc=6071
http://ec.europa.eu/competition/ecn/brief/01_2010/paymentcards_hu.pdf

India

<http://rbi.org.in/scripts/NotificationUser.aspx?Id=7304&Mode=0>

http://rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=7422

Israel

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/AR\(2012\)5&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/AR(2012)5&docLanguage=En)

Italy

<http://www.law360.com/articles/207330/italy-fines-mastercard-banks-over-interchange-fees>

http://ec.europa.eu/competition/ecn/brief/05_2010/it_bancomat.pdf

Latvia

http://www.kp.gov.lv/?object_id=1084&module=news

Luxembourg

http://www.pseconsulting.com/pdf/articles/interchange/consequences_of_mif_mar05.pdf

http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf

Mexico

Negrin, José Luis. "The regulation of payment cards: The Mexican experience," *Review of Network Economics*, 4:243-265, December 2005.

<http://www.kc.frb.org/publicat/pscp/2005/Ortiz.pdf>

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

Netherlands

http://www.pseconsulting.com/pdf/articles/interchange/consequences_of_mif_mar05.pdf

http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf

http://www.nma.nl/en/competition/financial_and_business_services/banks_and_business_services_cases/default.aspx

New Zealand

<http://www.comcom.govt.nz/media-releases/detail/2009/commercecommissionandvisareachagre/>

<http://www.comcom.govt.nz/media-releases/detail/2009/commercecommissionandmastercardagr/>

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

Norway

http://www.kredittilsynet.no/archive/f-avd_word/01/04/Regul011.doc
http://ec.europa.eu/internal_market/finservices-retail/docs/finfocus/finfocus3/finfocus3_en.pdf
<http://www.norges-bank.no/Upload/English/Publications/Economic%20Bulletin/2006-04/01-Payments%20history.pdf>
http://www.norges-bank.no/Upload/import/front/rapport/en/bf/2005/hele_heftet.pdf

Panama

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>
<http://www.iib.org/associations/6316/files/gs2004.pdf>

Poland

http://www.uokik.gov.pl/news.php?news_id=1004
<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>
http://www.uokik.gov.pl/news.php?news_id=2045
http://www.nbp.pl/homen.aspx?f=/en/system_platniczy/charges_reduction.html
<http://www.warsawoice.pl/WVpage/pages/articlePrint.php/21570/news>

Portugal

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/40&format=DOC&aged=1&language=EN&guiLanguage=fr>

Romania

http://www.consiliulconcurrentei.ro/uploads/docs/items/id8334/utula_carduri_2013_english.pdf

South Africa

<http://www.compcom.co.za/assets/Banking/Nonconreport/9-Appendices.pdf>
<http://www.compcom.co.za/assets/Uploads/AttachedFiles/MyDocuments/Banking-Press-Statement.doc>
<http://www.compcom.co.za/technical-report/>
<http://www.compcom.co.za/assets/Banking/Nonconreport/8-Conclusions.pdf>

South Korea

Asia Africa Intelligence Wire. "FTC slaps 10.1 bln won fine on BC Card for cartel activities." June 30 2005. <http://www.accessmylibrary.com/article-1G1-134475090/ftc-slaps-10-1.html>
<http://www.oecd.org/dataoecd/0/30/39531653.pdf>
<http://www.paymentssource.com/news/korean-card-networks-cut-interchange-fees-3008219-1.html>

Spain

http://ec.europa.eu/competition/sectors/financial_services/inquiries/sec_2007_106.pdf
<http://www.rbrlondon.com/newsletters/b221e.pdf>
<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>
Judgment (Case A 318/02 SERVIRED Interchange fees)
Judgment on individual exemption (Case no. A314/2002 SISTEMA 4B)
Proceedings in the case of amendment or revocation (Case no. A287/00 Euro 6000)
http://ec.europa.eu/competition/ecn/brief/01_2011/es_debit.pdf
<http://www.cncompetencia.es/Inicio/Noticias/tabid/105/Default.aspx?Contentid=287318&Pag=1>
<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Switzerland

<http://www.news.admin.ch/NSBSubscriber/message/attachments/14452.pdf> (German)
<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>
Competition Commission. "Annual Report 2005."
Competition Commission. "Translation of the Decision of the Competition Commission from 25. January 2010. Concerning Preliminary Injunctions in the Case of the Investigation under Article 27 of the Federal Act on Cartels and Other Restraints of Competition Relating to 22-0389: Credit Cards-DMIF II."
Competition Commission. "To the Federal Council: Annual Report 2010 of the Competition Commission"
<http://www.globalcompetitionreview.com/reviews/37/sections/132/chapters/1405/>
<http://www.mondaq.com/x/86584/Trade+Regulation+Practices/National+Competition+Law+Report++Q3+2009>
<http://www.oecd.org/competition/PaymentSystems2012.pdf>

Turkey

<http://www.oecd.org/dataoecd/0/30/39531653.pdf>
<http://www.oecd.org/competition/PaymentSystems2012.pdf>

United Kingdom

http://www.ofc.gov.uk/shared_ofc/ca98_public_register/decisions/ofc811.pdf
<http://www.ofc.gov.uk/news/press/2006/97-06>
<http://www.ofc.gov.uk/news/press/2006/20-06>
<http://www.ofc.gov.uk/news/press/2005/195-05>
<http://www.kc.frb.org/publicat/pscp/2005/Vickers.pdf>
<http://www.ofc.gov.uk/OFTwork/competition-act-and-cartels/ca98-current/interchange-fees/>

United States

<http://www.federalreserve.gov/newsevents/press/bcreg/20110629a.htm>

<http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-16861.pdf>

Venezuela

<http://www.bcv.org.ve/ley/reso081201.pdf> (Spanish)

<http://www.tsj.gov.ve/gaceta/diciembre/041208/041208-39073-25.html#> (Spanish)

Surcharges and Discounts

Australia

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

<http://www.rba.gov.au/publications/consultations/201106-review-card-surcharging/pdf/201106-review-card-surcharging.pdf>

<http://www.rba.gov.au/publications/consultations/201112-variation-surcharging-standards/pdf/201112-variation-surcharging-standards.pdf>

<http://www.rba.gov.au/payments-system/reforms/cards/201206-var-surcharging-stnds-fin-ref-ris/pdf/201206-var-surcharging-stnds-fin-ref-ris.pdf>

<http://www.rba.gov.au/payments-system/surcharging/index.html>

Austria

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Belgium

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Bulgaria

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Canada

<http://www.kc.frb.org/publicat/pscp/2005/Weiner-Wright.pdf>

<http://www.ct-tc.gc.ca/CasesAffaires/CasesDetails-eng.asp?CaseID=333>

http://www.ct-tc.gc.ca/CMFiles/CT-2010-010_Summary%20of%20Confidential%20Decision_317_38_7-23-2013_8408.pdf

Czech Republic

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Cyprus

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Denmark

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Estonia

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

European Union

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

http://ec.europa.eu/internal_market/payments/docs/framework/130724_proposal-revised-psd2_en.pdf

Fiji

<http://www.fijitimes.com/story.aspx?id=204526>

<http://www.reservebank.gov.fj/docs2/1%20Press%20Release%20No%2029%20-%20RBF%20Upholds%20No%20Surcharge%20Rule'%20for%20Fiji.pdf>

Finland

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

France

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Germany

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Greece

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Hungary

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Ireland

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Israel

<http://www.ny.frb.org/research/conference/2005/antitrust/Spiegel.pdf>

Italy

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Latvia

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Lithuania

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Luxembourg

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Malta

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Mexico

<http://www.oecd.org/dataoecd/31/19/38820123.pdf>

Netherlands

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

New Zealand

<http://www.comcom.govt.nz/media-releases/detail/2009/commercecommissionandvisareachagre/>

<http://www.comcom.govt.nz/media-releases/detail/2009/commercecommissionandmastercardagr/>

Poland

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Portugal

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Romania

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Slovakia

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

Slovenia

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Spain

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

Sweden

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

http://ec.europa.eu/internal_market/payments/docs/framework/transposition/psd_transposition_study_report_en.pdf

<http://www.iflr.com/Article/2713018/Implementation-of-the-Payment-Services-Directive.html>

Switzerland

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

United Kingdom

http://www.hm-treasury.gov.uk/press_148_11.htm

<http://www.rba.gov.au/payments-system/reforms/review-card-reforms/pdf/review-0708-issues.pdf>

<http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf>

<http://www.legislation.gov.uk/uksi/2012/3110/made>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175298/13-719-guidance-on-the-consumer-protection-payment-surcharges-regulations-2012.pdf

United States

<http://www.justice.gov/opa/pr/2010/October/10-at-1115.html>

<http://www.sutherland.com/files/News/6e8c1562-4474-47f2-85e9-82548465a8ef/Presentation/NewsAttachment/7c1450a9-a785-4b84-9d27-84f4e1535322/CORP%20Alert%207.25.11.pdf>

<http://pressreleases.visa.com/phoenix.zhtml?c=215693&p=irol-newsarticlePR&ID=1714726&highlight=>

<http://newsroom.mastercard.com/press-releases/mastercard-enters-into-agreement-to-settle-u-s-merchant-litigations/>