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30 March 2014

Dear Mr Murray AO

**Visa Inc. Submission to Financial System Inquiry**

Visa Inc. (Visa) welcomes the opportunity to lodge a submission to the Financial System Inquiry (FSI).

Visa's submission outlines key policy proposals aimed at ensuring a competitive, efficient and innovative retail payment system for the Australian end-user, namely Australian consumers and merchants. Globally, the payments market is ever-evolving and has witnessed significant changes since the Wallis report of 1997 which now requires both a regulatory and legislative stock-take, particularly in relation to unintended consequences created by an unlevel regulatory playing field which does not capture all participants in the payment system.

To accompany our submission, Visa also commissioned Deloitte Access Economics (DAE) to independently prepare an economic assessment of the competitive neutrality in Australian payment markets, given the current regulatory framework. Visa also commissioned JWS Research to conduct both qualitative and quantitative research during March 2014 to test Visa's policy recommendations with consumers in the payment system. Both reports will be discussed throughout our submission.

Please do not hesitate for the FSI Secretariat to contact Ms Kristen Foster, Senior Director, Government Affairs & Public Policy, Australia, New Zealand & the South Pacific (e: [krfoster@visa.com](mailto:krfoster@visa.com)) at any time if yourself or the FSI Panel have further questions relating to Visa's submission.

Visa would welcome the opportunity to provide a further briefing to both yourself and the FSI Panel during the consultation process. Thank you in advance for consideration of Visa's recommendations.

Yours sincerely

**Stephen Karpin**  
Group Country Manager  
Australia, New Zealand & the South Pacific







## **Visa Submission to the Australian Financial System Inquiry**

30 March 2014





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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

Visa welcomes the opportunity to make this submission to the Australian Financial System Inquiry (FSI) outlining key policy proposals aimed at ensuring a competitive, efficient and innovative retail payment system for all stakeholders and end users in Australia, such as Australian consumers and merchants.

Visa strongly supported the inclusion of “developments in the payments system” at section 3(6) of the FSI Terms of Reference<sup>1</sup>.

Visa agrees with the sentiments expressed by Mr David Murray, Chairman of the FSI to a CEDA event on 14 February 2014 that since the last financial system inquiry, the Wallis Inquiry, 18 years ago, Australia’s economy and financial system has undergone “major and unforeseen changes”<sup>2</sup>. This is true of the retail payments system.

It is now 16 years since the *Payment Systems (Regulation) Act 1998* (PSRA) became Australian law. We note that the PSRA was in large part a product of the Wallis Inquiry. During this time the PSRA has not been comprehensively reviewed, a lengthy period for any legislation in the modern era to remain fundamentally unchanged but an acutely lengthy period for an Act that regulates a field as prone to rapid, technology-driven change and new disruptive entrants as the retail payments sector. Further, as we will outline in this submission, the exercise of the powers established under the PSRA has led to an uneven implementation of regulation and several negative unintended consequences, furthering the case for the PSRA to be reviewed.

Visa submits that, given the clear inclusion of “developments in the payments system” in the FSI Terms of Reference, the FSI is the appropriate and timely vehicle for such a stock take of the PSRA to occur.

To ensure our submission is firmly founded on evidence-based policy solutions, Visa commissioned Deloitte Access Economics (DAE) to prepare a regulatory and economic assessment of the relevant aspects and competitive neutrality in the Australian retail payment system (Appendix A). Visa has also commissioned JWS Research to conduct both qualitative and quantitative research during March 2014 to test Visa’s policy recommendations with the consumer end-users in the payment system. Visa welcomes the findings in both reports and will discuss the significance of their outcomes throughout this submission.

In summary, we submit that:

- Visa is deeply committed to ensuring the benefits of electronic payments to the Australian economy, financial institutions, governments, merchants and consumers continue to be realised.
- There is an underlying regulatory flaw in the PSRA that requires amendment, namely that the mechanism contained in the PSRA that leads to regulation is not automatically applied to all payments systems but provides subjective discretion to the RBA to choose what is and what is not a

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<sup>1</sup> <http://jbh.ministers.treasury.gov.au/media-release/037-2013/>

<sup>2</sup> <http://fsi.gov.au/2014/02/14/keynote-address-by-david-murray-chairman-ceda/>





"payments system" which in turn sees some systems regulated and others left unregulated even though they are fierce competitors in the marketplace.

- This underlying regulatory weakness has led to an unlevel regulatory playing field in which unregulated payment systems, that generally impose higher merchant charges, have disproportionately grown at the expense of regulated payments systems, resulting in an estimated annual cost to Australian merchants in the 2013 financial year of \$125 million and over \$0.77 billion since the unlevel playing field was first established<sup>3</sup>.
- Without reform of the PSRA to either remove interchange regulation or create an automatically applied level regulatory environment, these inequities and inefficiencies will continue to grow, as both current beneficiaries and new entrants take advantage of regulatory loopholes at the disadvantage of Australian end-users.

In the context of these key facts, Visa strongly supports Mr Murray's reference in his 14 February CEDA speech that the FSI will:

*"examine the state of competition in banking payments, insurance, funds management and financial markets and whether it drives or impedes efficiency (both administrative and allocative in the financial system. A key issue in this area will be the impact of regulation on competition, including whether firms face a 'level playing field'"<sup>4</sup>.*

Furthermore Visa wishes to reiterate our ongoing position that interchange regulation and point-of-sale surcharging are negative practices for Australian end-users. Even where in a small number of markets, regulatory or business conditions have required that Visa take a different approach to these issues, we maintain that these outcomes are counter to the interest of the effected end-user consumer and merchants and not ideal for the most optimum operation of a modern payment system. Therefore, Visa believes simple policy options exist to rectify this situation and again bring efficiency and fair competition to play in Australian retail payments. This would directly stand to benefit Australian consumers and merchants.

**As such Visa recommends:**

1. The FSI recommend to the Federal Government the amendment of the PSRA to end the regulation of interchange in Australia through the revocation of the limits on interchange fees.
  - a. This would bring Australia back into line with the practice in which interchange is formally unregulated but is set by open and competitive market forces. The conduct of payment systems and other payments market participants would of course always remain subject to Australia's competition laws, which are a fundamental limit on the ability of any firm to act anti-competitively.

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<sup>3</sup> Deloitte Access Economics Report March 2014, "Competitive Neutrality in Australian Payments Markets".

<sup>4</sup> <http://fsi.gov.au/2014/02/14/keynote-address-by-david-murray-chairman-ceda/>



- b. This would also recognise the economic reality that regulation has not provided clear benefits to the Australian payment system, but instead has constituted a wealth transfer from Australian consumers to Australian merchants.
  - c. In addition, the FSI should propose that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a “payments system”, that is consistent with competitive realities, and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through “designation” what constitutes a “payments system”, replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems both traditional and non-traditional forms (as outlined in this submission).
  - d. Under such an arrangement we would support the continuation of the RBA’s general oversight and data collection powers as established under the PSRA.
2. If Option 1 was unsupported and limits on interchange are to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA to ensure all interchange and interchange analogues are equally regulated.
- a. We recommend this is best achieved by the FSI proposing that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a “payments system” and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through “designation” what constitutes a “payments system”, replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems both traditional and non-traditional forms (as outlined in this submission).
  - b. All licensed payment systems would then be equally regulated, namely interchange or any interchange analogue would be limited at a common level and through a common mechanism. This common limit would be automatically applied rather than through the discretionary imposition of a “Standard” by the RBA, although the common level and mechanism would be determined by the RBA as the regulator. It is important to note that this would not constitute “new” regulation, merely the extension of existing regulation to existing, new and future entrants offering equivalent services.
  - c. Under such an arrangement we would support the continuation of the RBA’s general oversight and data collection powers as established under the PSRA.
  - d. This Option would re-set the PSRA to be much closer to the regulatory norm across other sectors, such as banking and financial services, where the automatic application of regulation to all similar participants is the norm.

- e. This Option would also ensure the PSRA was prepared for the next 10-20 years of new entrants (both traditional and non-traditional), innovation and change in Australian retail payments.
3. In relation to surcharging, the FSI propose to the Federal Government that the PSRA, or any other relevant legislation, be amended to include a legislative prohibition on surcharging in Australia.
4. If Option 3 was unsupported and some level of surcharging is to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA, or any other relevant legislation, to clearly limit permitted surcharging and establish a public enforcement mechanism to ensure adherence to such a limit.

We feel that the FSI process presents the appropriate avenue to address the unintended regulatory consequences that have arisen under the PSRA which are currently costing Australian end-user consumers considerable amounts of hard-earned money in excessive surcharges

We believe our policy proposals align with a regulatory framework that will:

- encourage the continued growth of electronic payments, including support of the digital economy and greater innovation for the benefit of both consumers and retailers;
- promote fair and vigorous competition among the many payment providers, including non-traditional new technologies as well as traditional payment systems/electronic card schemes;
- promote innovation;
- enhance transparency; and
- protect Australian end-user consumers and merchants and respond to their evolving needs.



## VISA AND ELECTRONIC PAYMENTS

### Overview of Visa Inc.

Visa is a global payments technology company that connects consumers, businesses, financial institutions and governments in more than 200 countries and territories worldwide. Visa is proud to adhere to our corporate vision of being the best way to pay and be paid, for everyone, everywhere. That is, we aspire to be “everywhere you want to be” and we deliver on this through the world’s largest retail electronic payments network.

In the four quarters ended December 31, 2013 Visa Inc.’s global network encompassed 2.2 billion cards making just under 90 billion transactions through 14,500 financial institutions. These participants transacted US\$7 trillion in total volume of which US\$4.4 trillion was payment volume. Two million ATMs were also connected to our system.

This activity is in turn powered by one of the world’s most advanced payment processing networks, VisaNet, which is capable of handling more than 47,000 transactions per second reliably, conveniently and securely. Importantly, Visa is not a bank and does not issue cards, extend credit, deliver money or set rates and fees for consumers. Visa also does not set the merchant service fees paid by merchants.

Visa’s innovations, enable its financial institution customers to offer consumers more choices: pay now with debit, ahead of time with prepaid or later with credit products. Interestingly, governments around the world have, and continue to, switch to electronic payments instead of cheques for benefits payments and purchasing in order to increase efficiency and lower costs, saving taxpayers money. There are clearly direct benefits of electronic payments to the economy, efficiency and transparency. Among these are greater inclusion for the financially “underserved” and the reduction of the “grey” economy. Indeed, a recent study by the National Bureau of Economic Research in the United States concluded that the shift to electronic payments was responsible for a 9.8% decrease in the crime rate in the U.S.<sup>5</sup> Consumer and merchant relationships directly belong to Visa’s network of financial institution clients and are managed by our client networks, however Visa is always concerned about the benefits of electronic payments to the end-user, merchants and consumers.

### Growth of Electronic Payments and Economic Benefits

It is therefore timely for the Government to assess the impacts of current regulatory frameworks such as designation of payment systems, as well as excessive surcharging on consumers given the breadth and depth of usage of credit and debit cards for transactions and the major shifts in the payments landscape since the Wallis report.

The broad benefits of electronic card payments include, for example, cost savings, incremental additional sales for retailers, enhanced security, broad convenience for consumers and retailers, security and fraud detection and wide acceptance. Electronic payments enable consumers, businesses, financial institutions and

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<sup>5</sup> Richard Wright, et al., Less Cash, Less Crime: Evidence from The Electronic Benefit Transfer Program, National Bureau of Economic Research Working Paper 19996 (March 2014), at <http://papers.nber.org/tmp/38453-w19996.pdf>

governments to use electronic cards instead of cash and cheques. The payment system continues to shift from paper to electronic payments. In his speech to CEDA on 14 February 2014, Mr David Murray referred to this growth when he stated:

*"One example is the decline of cheques and the popularity of mobile or contactless options. At the end of 2013, the use of cheques was around one-third of the use ten years earlier. This may mean that we will stop using cheques in material numbers by 2020."*<sup>6</sup>

The electronic payments industry is at a unique moment in time where advances in payments, as well as other industries, open the door to truly transformative innovations in the way people pay and are paid. We trust that the Australian Federal government will keep this innovation context in mind as it considers its options to potentially influence this vibrant and ever-changing industry.

### **Economic Power of Electronic Payments**

The growth in the use of electronic payments, such as credit and debit cards, **added nearly US\$21 billion (AU\$20.2 billion) or 0.865 percent to additional consumption in Australia between 2008 and 2012**, according to Moody's Analytics<sup>7</sup> (Moody's Study) which concluded that, "card usage makes the economy more efficient, yielding a meaningful boost to economic growth".

Globally, in the same study, electronic payments were found to have contributed US\$983 billion to the GDP of the 56 countries examined in the same period (2008-12). This growth in the use of electronic payments systems is important in the context of surcharging consumers for utilising credit cards.

With increased electronic payments usage contributing almost US\$21 billion to Australia's GDP, there are key benefits from electronic payments for our economy. Australians are increasingly relying on electronic payments along with mobile technology to use their money any time, make purchases online, transfer funds within and across borders and access basic financial services. Electronic payment solutions make their lives easier, grow economies and contribute to employment opportunities.

The Moody's Study also concluded that increased credit and debit card usage contributes to economic activity by reducing transaction costs and improving efficiency in the flow of goods and services. The advent of credit and debit cards has greatly aided consumers' ability to optimise consumption decisions by giving them secure and immediate access to all of their funds on deposit or via a line of credit. Merchants also benefit because there is less cash and cheque handling in the payments system, eliminating the burdens and risks associated with such forms of non-electronic payments. In addition, the dramatic growth of e-

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<sup>6</sup> Keynote Lunch Address by Mr David Murray, Chairman of the Committee of Inquiry into the Financial System to CEDA, 14 February 2014

<sup>7</sup> <http://corporate.visa.com/media/moodys-economy-white-paper.pdf>



commerce and mobile payment methods would not be possible without global electronic payment systems which allow the safe and easy transfer of funds and guaranteed payment to merchants.

The United States Department of Commerce has previously highlighted the benefits of electronic payments:

*"Electronic payments expand the consumer market, increase banking access to the unbanked, improve macroeconomic efficiency, and encourage entrepreneurial activity".<sup>8</sup>*

Electronic payments are now very much an efficient part of the fast paced world in which we live. A paper on payments innovation published in 2011 revealed that:

*"Millions of merchants around the world have chosen to accept cards for payments and hundreds of millions of consumers use these cards to make purchases".<sup>9</sup>*

More recently, in 2012–13, over three quarters (76 per cent) of Australia's 15.4 million internet users made a purchase or order over the internet, according to figures recently released by the Australian Bureau of Statistics (ABS)<sup>10</sup>. Without a doubt electronic payments are a key component of our financial system and are becoming increasingly so with ecommerce transactions. The benefits of the electronification of payments via Visa's system are numerous on the consumer, merchant and economy sides, and outlined below.

CONSUMER BENEFITS	MERCHANT BENEFITS	ECONOMY BENEFITS
24/7 access to funds	Full access to a consumer's line of credit or debit account	Higher consumer spending
Accepted worldwide and global reliability	Potential increased sales	Increased GDP
Increased purchasing power	Guaranteed payment	Access to credit
Global security and safer than cash	Fraud protections	Eased global trade
Reliable and transparent	Potential cost savings	Government efficiency
Record of transactions	Internet and phone sales	Economic transparency
Product benefits/rewards	Customer loyalty	Banks the un-banked
Consumer protections		

<sup>8</sup> Department of Commerce, International Trade Administration, *Credit Card Market: Economic Benefits and Industry Trends* (March 2008), at 2, available at: [www.ita.doc.gov/td/finance/publications/credicards.pdf](http://www.ita.doc.gov/td/finance/publications/credicards.pdf)

<sup>9</sup> Payments Innovation and Interchange Fees Regulation: How inverting the merchant-pays business model would affect the extent and direction of innovation, David S. Evans, June 27, 2011 pp 17

<sup>10</sup> ABS Media Release 25 February 2014

## PAYMENTS REGULATION IN AUSTRALIA

### Traditional Payments System Structures in Australia

Credit cards were first issued in Australia in 1974 with Bankcard the first product issued – three years later in 1977 it was accepted nationally. Visa and MasterCard gained traction in the mid-1980s.

Electronic payments allow transparent and efficient transactions at the point of sale and enable consumers who hold a credit and or debit card and merchants who accept them to transact, it's a two sided relationship.

That is, payment systems are an example of a two-sided product, as they bring together to groups: cardholders and retailers. Put simply, demand is interdependent. The demand for payment cards by cardholders and retailers is interdependent – the greater number of consumers who use payment cards, the more valuable the network is to retailers, and the greater the number of retailers that accept payment cards, the more cardholders value those cards.<sup>11</sup> The economic aspects of two-sided markets also affect competition. Two-sided business models must consider the effects of pricing on both sides of the market.

### Traditional Four-Party Payment Systems

The Visa payments system operates as a traditional four-party payments system. A Visa transaction involves four key parties making up the four-party model, which is sometimes also referred to as an “open loop” system:

- **The merchant** – an entity that accepts Visa as payment, such as a store, restaurant, online retailer, hotel or airline.
- **The acquirer** – the financial institution linking merchants to Visa. Acquirers work with merchants to accept Visa payments and ensure they are paid.
- **The issuer** – the financial institution that offers Visa-branded products, such as debit or credit cards.
- **The account holder** – the consumer or business using Visa to pay.

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<sup>11</sup>See, e.g. Benjamin Klein et al., Competition in Two-Sided Markets: The Antitrust Economics of Payment Card Interchange Fees, 73 Antitrust L. J. 571, 580 (2006)

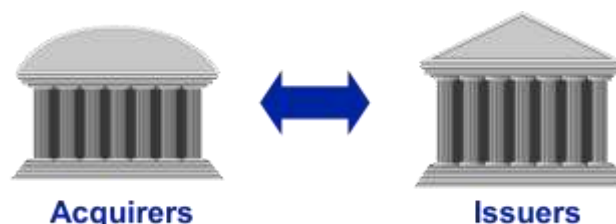
The four stakeholders in a four-party system are also represented graphically here and represent the transaction flow:



Further detail on how four-party schemes operate is detailed in the DAE report at section 2.1.1.

## Interchange

One key element of a four-party scheme is default interchange. Interchange operates as the value exchange in the two-sided market that is a modern payments scheme, namely between the Issuer and the Acquirer. In other words, interchange is a transaction-based transfer exchanged between issuing and acquiring financial institutions each time a Visa payment product is used.

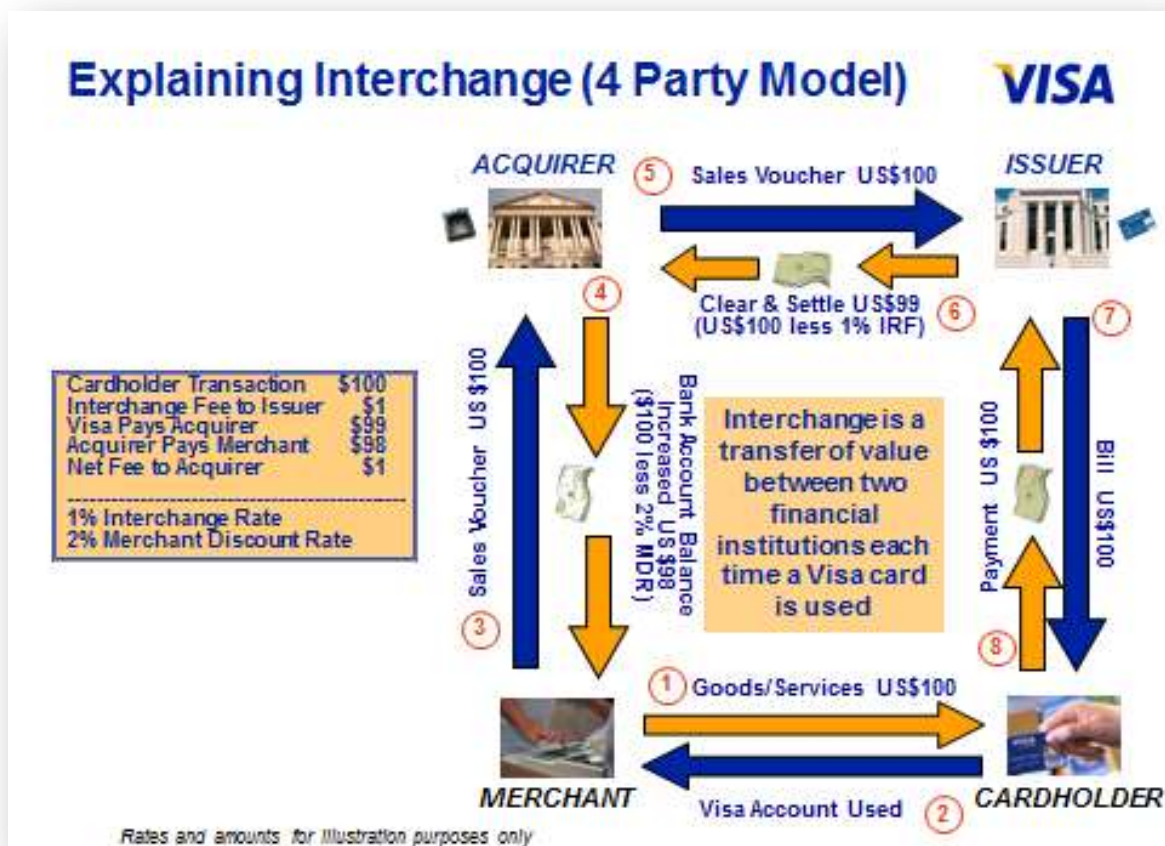


Acquirers pay issuers for payment transactions. Issuers pay acquirers for ATM transactions. Interchange flows "in reverse" for credits and chargebacks on payment transactions. Interchange balances the economic incentives of the payments system.

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.

The essence of Visa's open model is that we balance the push and pull of demand between the system's end-users. It is important to note that interchange is paid by acquirers to issuers and is not Visa revenue – Visa thus has no incentive to set interchange "too high" or "too low", rather, Visa sets interchange fees to balance demand of both sides of the network.





Insufficient issuer interchange revenue, which could be caused by interchange regulation, can lead to reduced investment in innovation, such as investments in chip, e-commerce, limited issuer investment in product features that drive cardholder usage and increase merchant sales through, loyalty and promotions and increases in cardholder fees (which in turn leads to fewer cardholders and fewer electronic transactions) and interchange that is too high can lead to fewer merchants accepting cards for payment, surcharging, or merchants promoting use of less efficient payments.

Fewer electronic payments for either reason means that merchants lose out on the opportunity to lower their cash handling costs, minimise loss from mishandling cash or theft, have guaranteed payment and make fewer bank deposits. Cardholders lose convenience, personal security, fraud protections and the overall economy suffers as consumers spend less and GDP is smaller. The net effect is governments lose out on the chance for more efficiency, stability, transparency and tax revenues.

Importantly, as mentioned above, interchange is not revenue to Visa and since the listing and initial public offering (IPO) of Visa Inc on the New York Stock Exchange in 2008, Visa client financial institutions have no



role in the setting of interchange rates in the Visa system. Ultimately, as noted, Visa has no incentive to set interchange fee levels that are either “too high” or “too low”. Interchange is set at levels designed to maximise the output of the payment system. Rates vary according to product type (e.g., debit or credit), value provided to the retailer, type of retail business, the risk associated with a transaction (e.g., face-to-face or over the internet) and by country, among other factors.

Thus, Visa has traditionally set lower rates for certain segments where there have been challenges achieving merchant acceptance (e.g., grocery stores, small-ticket merchants), while it sets higher rates for transactions at merchants that represent higher risk to other participants in the payment system (e.g., e-commerce merchants, who pose a higher fraud risk, with its attendant costs on issuers, acquirers, and cardholders). Importantly, to set interchange fees effectively, Visa must engage in a precise and nuanced analysis of the marketplace along multiple dimensions. There is no “one size fits all” rate that is likely to maximize volume in all countries and all merchant segments.

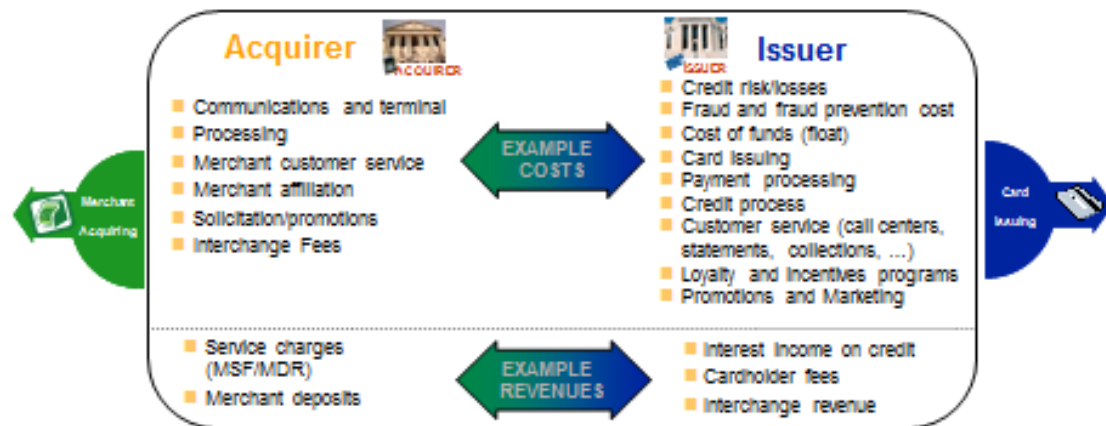
Visa’s interchange-setting methodology is a highly efficient and pro-consumer way to manage its payment network. Visa uses its independent, market-place driven judgment to determine core business functions, such as interchange. Visa uses interchange to foster competition and innovation.

The Interchange Benefits Matrix:

<b><u>CONSUMER BENEFITS</u></b>	<b><u>MERCHANT BENEFITS</u></b>	<b><u>ECONOMY BENEFITS</u></b>
Funding innovation – new technology, fraud protection and security  Low and/or no annual fee cards for consumers	Card usage and protection programs designed to increase cardholder spend at merchant locations and displace cash payments	Job creation – roles in customer service, cardholder education, fraud and collections at banks  Financial literacy programs designed to raise awareness about electronic payments



## Interchange Balances Costs, Revenue, Incentives & Value to Participate in the Network



Interchange transfers value so that both issuing and acquiring are competitive businesses with incentive to attract more cardholders and merchants

Costs and revenues are only one factor to consider when balancing the incentives to participate. The value that each participant derives is also a key consideration

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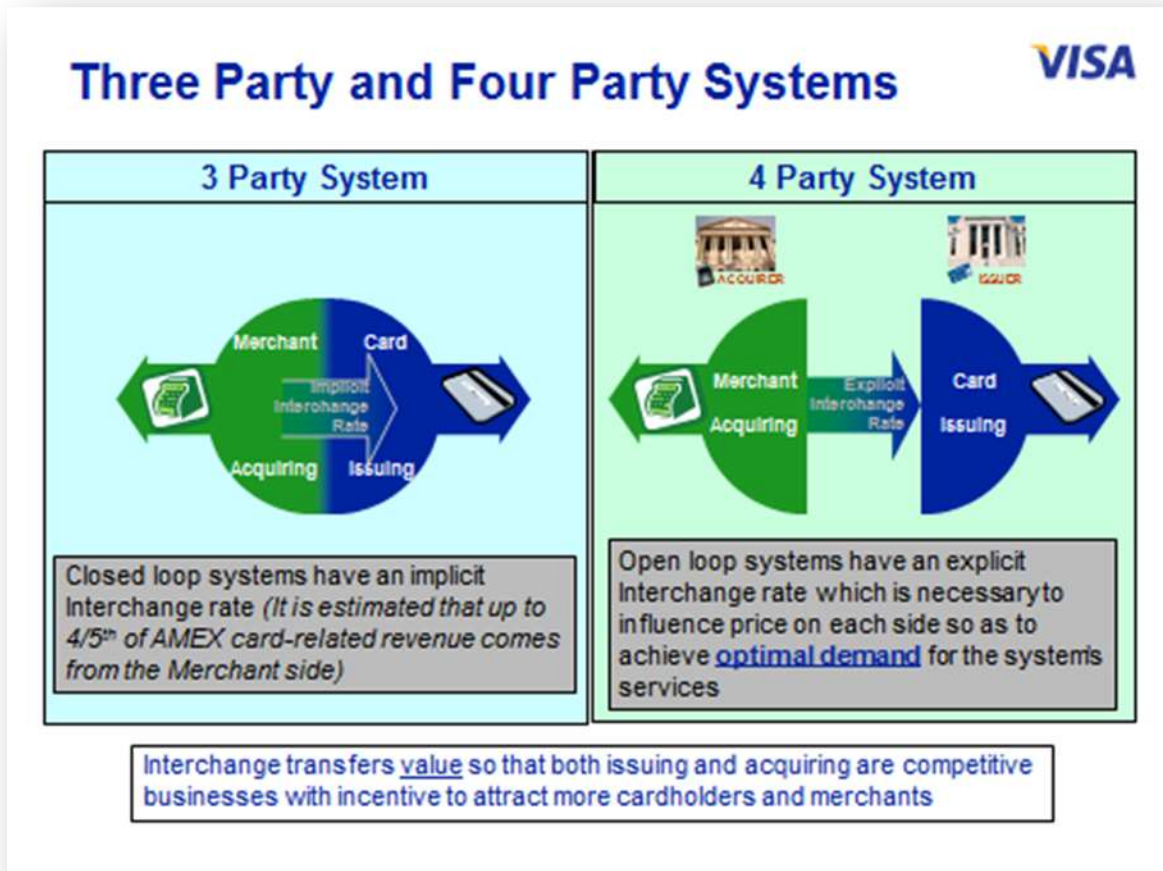
### Traditional Three-Party Payment Systems

The second traditional payments system model is what is known as a "three-party model" payments system or what has also been called a "closed loop" system. The detail of this model is also outlined in the DAE Report (at section 2.1.2), but in essence it involves both the issuer and acquirer functions of a traditional four-party model being performed by the same entity, thus making only three-parties. This is the model upon which American Express and Diners Club have historically relied.

In relation to interchange, in a traditional three-party model there is no explicit interchange fee given the two-sided market model is effectively collapsed into the one entity. Rather, the management of the incentivisation of issuance and merchant acquiring is achieved via an internal transfer pricing mechanism.

<sup>12</sup> This diagram is illustrative only, other costs may apply.

This transfer is understood to follow a similar pathway to that seen in the traditional four-party model with merchant fees funding investments in the cardholder issuance side of the business.



### The RBA's Regulatory Actions in Relations to Traditional Payment Systems

As previously mentioned, the passage of the PSRA in 1998 and the establishment within the RBA of the Payment Systems Board (PSB), saw Australia become one of the first significant markets in the world to explicitly charge a central bank with retail electronic payments oversight.

The RBA's website outlines its regulatory role in the payments system:

*"A safe, competitive and efficient payments system is essential to support the day-to-day business of the Australian economy. The Payments System Board of the Reserve Bank has a mandate to contribute to promoting efficiency and competition in the payments system, and the overall stability of the financial system. The Bank oversees the payments system as a*

*whole, which encompasses a wide variety of individual payment instruments – ranging from cheques and payment cards to high-value corporate payments – and the usually unseen arrangements that ensure the smooth transfer of funds from accounts at one financial institution to another”.<sup>13</sup>*

The RBA is afforded such responsibilities under PSRA along with the amended *Reserve Bank Act 1959* which also empowers the PSB in relation to the RBA’s payments system policy.

Under the PSRA, the RBA has discretion to take certain actions in relation to payment system operators, namely it may:

- **Designate** a particular payment system as being subject to its regulation. Designation has no other effect; it is simply the first of a number of steps the Bank must take to exercise its powers;
- **Determine rules for participation** in that system, including rules on access for new participants. Since access is inextricably linked to efficiency the Bank works closely with the Australian Competition and Consumer Commission (ACCC) (see below);
- Set **Standards** for safety and efficiency for that system. These may deal with issues such as technical requirements, procedures, performance benchmarks and pricing;
- **Direct compliance** of participants in a designated payment system with a standard or access regime; and
- **Arbitrate on disputes** in that system over matters relating to access, financial safety, competitiveness and systemic risk, if the parties concerned wish.<sup>14</sup>

The net effect of the PSRA structure is that, unlike other regulated sectors where the impact of regulation is automatically applied to all current and future new entrant participants, payment schemes may or may not be regulated at the discretion of the regulator. That is, whilst the Australian Prudential Regulatory Authority (APRA) and the Australian Securities and Investments Commission (ASIC) do not have discretion to determine that what is plainly a banking institution or a corporate entity are in fact not such and are then not regulated as such, under the PSRA, the RBA holds such subjective discretion in relation to payment systems.

This is not merely an academic concern as since the promulgation of the PSRA, the powers to designate and apply standards have been deployed in a manner that has meant only some of what are patently payment systems in Australia are regulated whilst others are not. In a nutshell the RBA has regulated those traditional four-party model schemes, being Visa and MasterCard, who were in operation at the commencement of the PSRA, but has not regulated any traditional three-party model schemes, namely American Express and

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<sup>13</sup> [www.rba.gov.au](http://www.rba.gov.au)

<sup>14</sup> [www.rba.gov.au](http://www.rba.gov.au)



Diners Club nor any new entrant four-party model schemes, namely China UnionPay or the four-party model schemes created by the companies who manage the traditional three-party models, such as Amex Global Network Services, or “GNS” companion cards and Diners Club companion cards.

Equally, several wholly new payment system models have entered the Australian market and remain unregulated in any way. Examples of these include PayPal and the Google Wallet.

### **Payment Systems that have been designated as Payment Systems under the PSRA**

As Visa is aware, the RBA has currently designated the following payment systems in accordance with section 11 of the PSRA. To date the RBA has not designated the payment systems of either American Express or Diners Club. Originally, in August 2002, American Express and Diners Club each avoided the designation of their payment systems by providing undertakings to the RBA. Since 2002, each of American Express and Diners Club have been able to continue to avoid the designation of their payment systems by providing requested undertakings to the RBA or by agreeing to modify offending provisions in their scheme rules. This position has been maintained despite their increasing presence in the operation and promotion of new entrant four-party schemes.

<b>Payment System</b>	<b>Date of Designation/Gazettal as a Payment System</b>
The credit card system operated within Australia known as the “VISA system” or the “VISA Network Card System”	12 April 2001 – regulated as a payment system
MasterCard	12 April 2001 – regulated as a payment system
The debit card system operated within Australia known as Visa debit	23 February 2004 – regulated as a payment system
The EFTPOS System	9 September 2004 – regulated as a payment system
The ATM System	10 December 2008
The EFTPOS System (narrow definition)	12 June 2012



### Examples of Payment Systems that remain unregulated under the PSRA

Payment System	Status of Regulatory Oversight under the PSRA
American Express	Undesignated and unregulated (although several voluntary undertakings have been entered into, although none relate to Issues Rates/Interchange)
Diners Club	Undesignated and unregulated
UnionPay	Undesignated and unregulated
PayPal <sup>15</sup>	Undesignated and unregulated
Google Wallet	Undesignated and unregulated

In and of itself this approach offends the sound principle of competitive neutrality. In relation to the non-regulation on traditional three-party model schemes, Visa acknowledges that these models do employ different structures, but analogues to interchange exist in the internal transfer pricing model and if regulation is to be truly applied equally an approach should be developed to also capture traditional three-party model offerings.

However the main regulatory arbitrage arising from the structure of the PSRA and its subsequent discretionary application is in relation to new entrant four-party model schemes.

### New Entrant Four-Party Model Schemes

As outlined in detail in the DAE Report, and above, interchange in the Visa and MasterCard systems is regulated. This is as a result of both four-party model schemes being “designated” under the PSRA and the subsequent imposition of “Standards” in relation to interchange settings. These Standards require both schemes to balance an interchange basket to an effective average rate of 50 basis points over a three-year cycle before resetting to commence the same process again.

Since the imposition of these regulations several new four-party model schemes have entered the Australian market, namely American Express GNS (also known as the Amex “companion card”) and the Diners Club companion card (issued with Citibank MasterCard). We understand that China Union Pay has well developed plans to also launch a four party model card in Australia. Each of these deploys a four-party model. Take for

<sup>15</sup> Note that in terms of players such as PayPal Australia Pty Limited, it is currently licenced under the banking Act as an Authorised Deposit-Taking Institution (ADI) in order to allow it to operate as the provider of a purchased payment facility. It holds a limited firm of licence that permits it to operate as a provider of a “purchased payment facilities” but not broadly as an ADI.





example the American Express companion card offering. The four parties in this model are the consumer/cardholder, the merchant, American Express as the acquirer and the companion card issuing bank as the Issuer.

Equally, a two-sided market-based fee, known as an “issuer rate” is paid by American Express (acquirer) to the issuer in exactly the manner interchange flows in the Visa or MasterCard systems. That is, issuer rates perform the same function as interchange but without being subject to price regulations. In the RBA’s March 2012 Bulletin it referred to this changing market dynamic as follows:

*“There has been increased promotion of American Express companion cards since late 2009, following the introduction of these cards (Companion Cards) by two major banks. Over time, credit card products with companion cards attached have increasingly replaced traditional single-card reward programs in the product lines of all major banks. Under these arrangements, cardholders typically earn more reward points for spending on the American Express card than for spending on the MasterCard or Visa card. While there are no interchange fees in the three-party schemes, there are nonetheless commercial arrangements in place that give financial institutions an incentive to issue companion cards. In addition, three-party scheme cards tend to be more expensive for merchants to accept: these schemes can use their merchant service fee income to fund more generous rewards programs to attract cardholders”.*<sup>16</sup>

American Express itself has confirmed the distinction between its traditional three-party model and its new entrant four-party model. Most recently this occurred in the American Express response to the European Commission’s draft proposals on payment industry regulation in relation to which American Express stated on its website that:

*“Three-party systems, such as American Express, would only be covered when they license other institutions to issue cards, as in our Global Network Services Business. GNS represents a relatively small percentage of our European business” as outlined in the above statement on American Express’ website.*<sup>17</sup>

Through this statement American Express both confirms the difference in the two models and, in the European context, accepts that its four-party model would be regulated in the same manner as traditional four-party model schemes such as Visa and MasterCard.

On 26 August 2011 during a House of Representatives Standing Committee on Economics, the Hon Steven Ciobo MP, now Parliamentary Secretary to the Treasurer, alluded to the un-level regulatory playing field created by the RBA’s regulatory intervention for electronic payment systems such as Visa and MasterCard, when he asked (pp 20):

<sup>16</sup> <http://www.rba.gov.au/publications/bulletin/2012/mar/>

<sup>17</sup> Source: <http://about.americanexpress.com/news/pr/2013/statement-euro-comm-proposals.aspx>.

*"Can I change the topic to an old hobbyhorse of mine, and it is not Securrency. It is the issue of three-party and four-party schemes and interchange rates. In your capacity as a regulator, can you outline for the committee, given that some time has now elapsed since regulatory changes were made, what has happened in terms of market share between the three-and four-party schemes?"*

To which RBA Governor, Mr Glenn Stevens advised:

*"I think in recent times the three-party schemes have gained some market share. A lot of that comes from linking up with some of the banks to issue cards".*

Mr Ciobo replied that:

*"some of the concerns that I and others raised at the outset of this was that we would see an erosion of competitiveness by the four-party schemes over the three-party schemes because of, I would suggest (pp21) the regulatory imbalance that arose as a consequence of the intervention".*

Competitive neutrality would be beneficial to the market, potentially creating a regulatory balance, and therefore beneficial to consumers.

### Size

Some have stated that one rationale for the non-regulation of these new four-party model payment systems was because they have smaller share of payments volume. Visa submits that this is a questionable policy position even in the abstract. Although share is a concept utilised under competition law, there is no public policy reason dictating that share is determinative of the appropriate level of regulation.

APRA does not determine, and nor is it empowered to determine, that simply because a financial institution is "smaller" that it need not be prudentially regulated. Equally, a small manufacturer of pharmaceuticals can do as much damage to peoples' health and the level of confidence in medical safety as a large producer, and as such both are duly regulated.

Beyond that principled point, these new four-party model payment systems can no longer be considered "small" with at least one, American Express, now constituting close to 20 percent of the entire card segment and a potential new entrant, China UnionPay, being supported by a globally significant parent company with more cards issued than is the case with Visa (3.5 billion China UnionPay cards, compared to 2.5 billion Visa cards) and is growing three to four times faster than Visa and MasterCard. While China UnionPay issues the bulk of its cards in China, or in niche customer segments such as Chinese expatriates/travelers), it now partners with 100 issuers in 20 countries.<sup>18</sup>

### Rapid Growth

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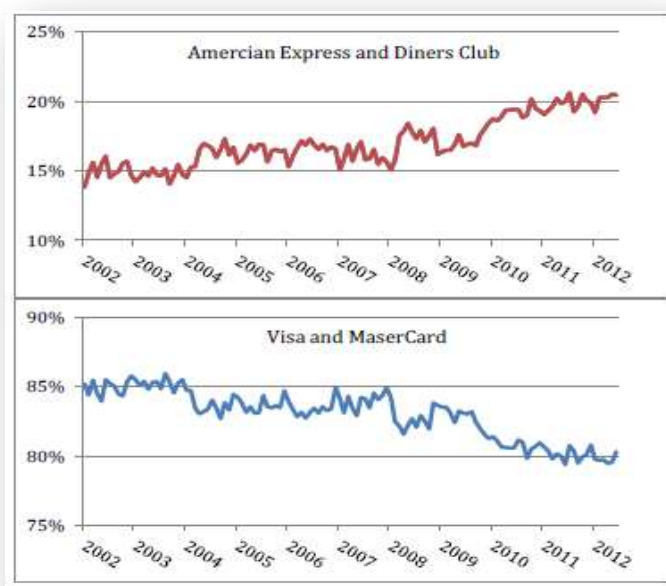
<sup>18</sup> Global Brands Card Acceptance Worldwide, The Nilson Report, March 2013, at 9.

These unregulated schemes can and do offer issuer rates to issuing banks at whatever level they choose, that is, these rates are uncapped and as such are significantly more attractive to issuing banks than regulated interchange rates. This drives the incentive for more and more of these cards to be issued.

But it is important to note that these higher issuer rates are funded by significantly higher merchant service fees, the averages of which for American Express and Diners Club are often two times or more the levels of Visa and MasterCard. The merchant service fee set by American Express is considerably higher than the fee that merchants pay for accepting Visa or MasterCard cards (which may include the interchange fee).<sup>19</sup>

Whilst the RBA collects and publishes market share data, this data does not segregate between that part of the American Express and Diners Club share that is made up of its traditional three-party model business versus that of its new entrant four-party model business. However if we track the combined three and four-party share growth of American Express/Diners Club using this RBA data, noting also that Diners Club constitutes a very small component of this share, we can see a marked increase in overall share commencing shortly after the unlevel playing field took effect, rising from around 14 percent in 2003 to over 20 percent today.

*Market Share of Card Schemes in Australia<sup>20</sup>*

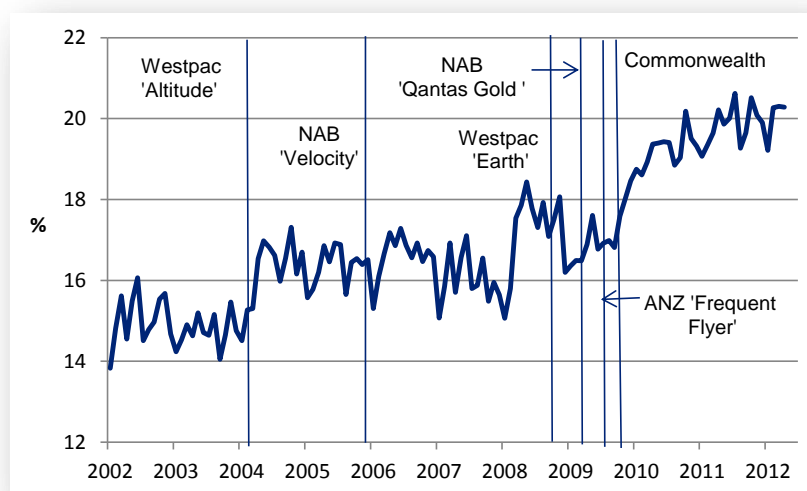


<sup>19</sup> Source, Amex' average merchant service fee is 2.5%. American Express, 2012 Summary Annual Report 21 (Dec. 31, 2012)

<sup>20</sup> Source RBA, [www.rba.gov.au](http://www.rba.gov.au) Excludes Scheme debit from 2008, back data adjusted for break. Visa and MasterCard includes Bankcard before 2007.

Equally, if the key issuance points of four-party model American Express companion cards are superimposed over this data we see a compelling case that the majority of new market share attained by American Express since 2003 is attributable to the expansion of these non-regulated, four-party, companion model cards.

*Market Share of American Express and Diners Club Transaction Value<sup>21</sup>*



Source: RBA, DAE

Another way of analysing this data is to assess not just the market share attainment of American Express/Diners Club but by the percentage growth in their business represented by this market share expansion. This metric finds that such schemes have enjoyed a more than 35 percent gain in share as a result of the RBA review of interchange in 2003, rising from 13.9 percent in 2003 to 19.9 percent in 2011.

Also, the impact in payment volume dollar terms has been acute. For example, the total value of credit and charge card purchases in 2011 was \$238.7 billion. Had the three-party/new entrant four-party card scheme share remained steady at 14.7 percent, the value of purchases made on those cards would have been \$35.1 billion instead of \$47.5 billion. That is, the ability of the three-party card schemes to operate outside of the lower interchange regulations imposed on the four-party card schemes resulted in a transfer of spend to the three-party/new entrant four-party card schemes in 2011 alone of \$12.4 billion.

If these market dynamics were a product of fair and balanced competition on a level playing field, Visa would accept them as the outcomes of a dynamic and demand-driven market in full operation. Equally, as retail payments is a global industry we would also expect to see similar market share movements occurring in other markets. However this has not occurred and there is regulatory arbitrage and Australia is one of the

<sup>21</sup> Deloitte Access Economics Report March 2014, "Competitive Neutrality in Australian Payments Markets".

only markets in the world where American Express has performed in this way. We submit that this can be directly linked to the unlevel regulatory playing field.

*Detrimental Merchant and Consumer costs*

Beyond merely tracking the growth of these new four-party model payment systems, it is critical that the effect of this expansion on Australian merchants and consumers be highlighted. It is this cost that truly underlines the need for action by the FSI in relation to these issues. The key impacts are contained in detail in the DAE Report at section 4.2 ("Impact on Australia's credit card market").

The first significant impact is seen in the changing nature of which kind of merchants are being presented these higher-cost unregulated four-party model cards. As outlined in the DAE Report:

*"In addition to the shift in market share, there is also evidence that the use of traditional three-party scheme cards has changed with the introduction of four-party companion cards. As discussed above, American Express and Diners Club were previously marketed at wealthier individuals, specialising in the corporate, travel and entertainment sectors. This contrasted with the traditional four-party schemes, which targeted a much broader range of customers.*

*However, according to a survey by the RBA, there have been clear shifts in the types of purchases that are now made using three party scheme cards. In particular, supermarket purchases comprised less than 10% of card payments in 2007 but their share had jumped above 40% by 2010. Indeed, supermarket and petrol purchases now account for over 50% of American Express and Diners Club card payments."<sup>22</sup>*

This means any additional costs arising from the growth in such cards is now being spread into "everyday spend" merchant categories and some percentage of those costs are either being passed onto consumers through higher base prices for items such as groceries or passed on via surcharges. Given the decision of the two main retail groups in Australia not to impose surcharges, it is reasonable to assume that some amount of cost pass-through to Australian end-user consumers is taking place, although we acknowledge that consumers also benefit from access to increased rewards.

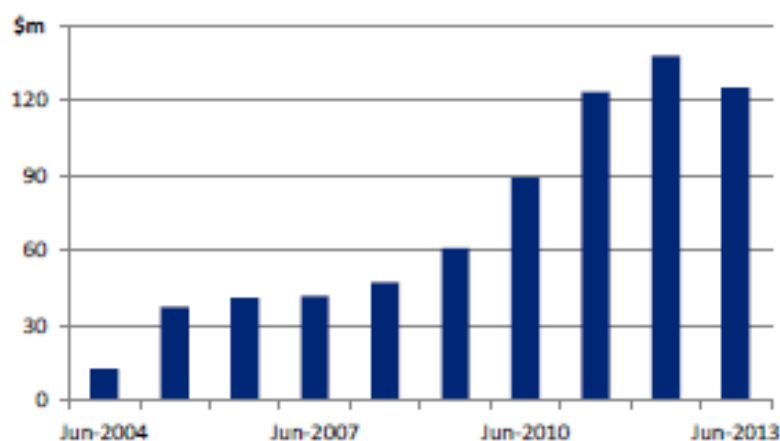
But what is the size of this additional cost to the many participants in the Australian economy, being borne by for example either merchants and/or consumer end-users? In a significant new piece of economic research, the DAE Report finds that:

*"the rising market share of unregulated four-party schemes since the first half of 2003 when the regulations were introduced has directly cost merchants an estimated \$125 million in higher fees in the 2013 financial year and a cumulative \$0.77 billion in 2013 dollars since the reforms were introduced in 2003".*

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<sup>22</sup> Deloitte Access Economics Report March 2014, "Competitive Neutrality in Australian Payments Markets".

**Chart 4.5: Direct cost to merchants caused by increases in American Express/Diners Club market share**



Source: DAE, RBA

In addition, when we look at the fee structures deployed by some non-traditional payment systems we also see high consumer costs. For example, PayPal's average merchant service fee (which is unregulated) is 3.79 percent – a much higher percentage than what the majority of merchants pay for accepting Visa cards.<sup>23</sup>

In summary, we submit that:

- Visa is deeply committed to bringing the power of electronic payments to the Australian economy, financial institutions, governments, merchants and consumers.
- There is an underlying regulatory flaw in the PSRA that requires amendment, namely that the mechanism contained in the PSRA that leads to regulation is not automatically applied to all payments systems but provides discretion to the RBA to choose what is and what is not a "payments system" which in turn sees some systems regulated and others left unregulated.
- This underlying regulatory weakness has led to an unlevel regulatory playing field in which generally more costly unregulated payment systems have artificially grown at the cost of regulated payments

<sup>23</sup> Press release, eBay Inc., eBay Inc. Reports Strong Second Quarter 2013 results (July 17, 2013), available at: [www.ebayinc.com/in\\_the\\_news/story/eBay-inc-reports-strong-second-quarter-2013-results](http://www.ebayinc.com/in_the_news/story/eBay-inc-reports-strong-second-quarter-2013-results) (showing \$1,624million in net revenue on \$42,813 million of payment volume in the most recent quarter, for an average merchant fee of 3.79%)

systems at the significant estimated annual cost to Australian merchants in the 2013 financial year of \$125 million and over \$0.77 billion since the unlevel playing field was first established<sup>24</sup>.

- Without reform of the PSRA to either remove interchange regulation or create an automatically applied level regulatory environment, these inequities and inefficiencies will continue to grow, as both current beneficiaries and new entrants take advantage of regulatory loopholes at the disadvantage of Australian end-user consumers.

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<sup>24</sup> Deloitte Access Economics Report March 2014, "Competitive Neutrality in Australian Payments Markets".



## REFORMING THE PSRA

Visa believes simple policy options exist to rectify the above situation and return efficiency and fair competition to the regulation of Australian retail payments. This would directly stand to benefit Australian end-users to the level of up to \$125 million per annum.

### Removal of Interchange limits

As outlined, since 2003 the RBA has enforced a limit on interchange fees for some payments systems in Australia. It is noteworthy that, as mentioned in the DAE Report, that "when the RBA implemented its reforms in 2003, it did so with little international precedent and only a relatively nascent economic theory on which to base its decisions"<sup>25</sup>.

Prior to the introduction of this regulation there had not been any market failure and it can be argued that consumers end-users have not subsequently benefitted from the regulatory intervention. In Visa's view, no attempt to regulate interchange fees has effectively balanced the interests of retailers and consumers. Unquestionably retailers have received a windfall in lower acceptance costs and increased profits. However, because interchange fees are a balancing mechanism, any reduction in merchant costs of acceptance means less revenue to issuing banks, which need to make up the lost revenue from other sources. Innovation is reduced and consumers have uniformly seen increased bank fees, elimination of free services such as transaction accounts and the reduction or elimination of rewards programs.

In a paper by CRA International in 2008, it analysed the impact of regulatory intervention in the payment card industry in Australia and concluded that:

*"The reductions in interchange fees ordered by the RBA have clearly harmed consumers by causing higher cardholder fees and less valuable reward programmes...In addition, there is evidence that merchants have imposed surcharges to a greater extent than is justified in their costs...while the RBA's regulations have clearly benefited merchants, they have harmed consumers by causing cardholder fees to increase and the value of card benefits such as reward programmes to decline"*<sup>26</sup>

In the RBA's 2007/2008 review it advised that interchange fee regulations had:

*"resulted in a reduction in the value of reward points and higher annual fees, increasing the effective price of credit card transactions facing many consumers".<sup>27</sup> "Data provided by the RBA in the same 2007/2008 review found that Australian cardholders were paying*

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<sup>25</sup> Deloitte Access Economics Report March 2014, "Competitive Neutrality in Australian Payments Markets".

<sup>26</sup> Regulatory intervention in the payment card industry by the Reserve Bank of Australia Analysis of the Evidence", prepared by Robert Stillman, William Bishop, Kyla Malcolm, Nicole Hildenbrandt, 28 April 2008, pp3

<sup>27</sup> RBA, Preliminary Conclusions of the 2007/08 Review (April 2008), pp 17.



*approximately AU\$480 million each year in additional fees to issuing banks for Visa and MasterCard credit cards as a direct result of the RBA's regulations".<sup>28</sup>*

In short, interchange regulation results in an unwarranted wealth transfer from cardholders to merchants, while simultaneously resulting in a host of unintended consequences both for consumers, governments and the electronic payments system generally.

In fact, the RBA itself has recognised that regulation has led to increased costs for consumers with no corresponding reduction in retail prices. Indeed, the RBA concluded that:

*"[l]ower interchange fees in the MasterCard and Visa credit card systems have resulted in a reduction in the value of reward points and higher annual fees, increasing the effective price of credit card transactions facing many consumers."<sup>29</sup>*

As the RBA conceded, "no concrete evidence has been presented to the Board regarding the pass-through of [retailers' interchange] savings."<sup>30</sup>

The United States Government Accountability Office has summarized the impact of Australia's interchange regulation in definitive terms:

*"In Australia, where the reforms have been in effect long enough to allow for some study, consumers have experienced a decline in the value of credit card reward points for most cards and an increase in annual and other consumer credit card fees. For example, RBA estimated that average annual fee revenue from fees, such as cash advances and late payments on bank-issued personal credit cards has doubled from around \$40 per account in 2002 to around \$80 in 2006, although it did not estimate the total amount paid by all cardholders. RBA officials attributed these changes to their reforms of the credit card system. . . . In addition, Australia's central bank has not been able to discern whether merchants have passed along their reduction in the costs of accepting cards—resulting from the reforms—in the prices charged for retail goods and services".<sup>31</sup>*

There is no evidence to suggest that interchange regulation increases efficiency. Instead it leads to higher card usage prices for consumers and no reduction in the prices that retailers charge consumers which was

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<sup>28</sup> As above, pp23, [www.rba.gov.au/PaymentsStatistics/ExcelFiles/RPS.xls](http://www.rba.gov.au/PaymentsStatistics/ExcelFiles/RPS.xls)

<sup>29</sup> See Reserve Bank of Australia Payments System Board, *Reform of Australia's Payments System: Preliminary Conclusions of the 2007/08 Review*, at 17 ("RBA 2007/08 Review"), [http://www.rba.gov.au/PaymentsSystem/Reforms/RevCardPaySys/Pdf/preliminary\\_conclusions\\_2007\\_2008\\_review.pdf](http://www.rba.gov.au/PaymentsSystem/Reforms/RevCardPaySys/Pdf/preliminary_conclusions_2007_2008_review.pdf); see also Robert Stillman et al., *Regulatory Intervention in the Payment Card industry by the Reserve Bank of Australia: An Analysis of the Evidence* 46-48 (Apr. 28, 2008), available at [http://www.crai.comlecp/assets/Regulatory\\_intervention.pdf](http://www.crai.comlecp/assets/Regulatory_intervention.pdf), at 15-16 (noting that cardholder rewards have been reduced by approximately 23% since 2003) (Stillman).

<sup>30</sup> RBA 2007/08 Review, as above

<sup>31</sup> U.S. Government Accountability Office, *Credit and Debit Cards*, GAO-08-558 (May 2008), at 35-36, available at: [www.gao.gov/new.items/d08558.pdf](http://www.gao.gov/new.items/d08558.pdf)



understood widely to have been the ultimate goal of this regulatory intervention. A more recent repeat of this cycle of consequences from interchange regulation can be seen in the United States.

The Durbin Amendment was enacted on July 21, 2010 as part of the Dodd-Frank Act, and required the Federal Reserve Board to develop a set of rules on debit card interchange fees and to regulate exclusivity and network routing arrangements of card networks and banks. The new rules limit the size of the interchange fee that can be received by large banks, defined as banks with assets of US\$10 billion or more, to a maximum of 21 cents per transaction plus 0.05 percent of a transaction's value. Additionally, these large banks, or "regulated banks," may receive one cent more per transaction as a fraud-prevention adjustment if they comply with the Federal Reserve Board's fraud-prevention standards.

The Durbin Amendment has decreased costs to retailers by an estimated US\$8 billion annually. Large retailers gained a US\$8 billion windfall without passing on savings to consumers.<sup>32</sup>

To offset the significant reduction in interchange revenue, banks have responded through a combination of reducing product offerings and features, imposing new charges, and/or increasing fees. At the same time that banks have been forced to raise prices or reduce offerings for consumers, retailers have not passed on their cost savings to consumers.

Consumers have thus been left paying higher prices for, or experiencing a reduction in, banking services without any tangible evidence of offsetting decreases in the prices they pay retailers. In short, while merchants got a windfall, consumers paid the price.

A study by economist David Evans and published by the University of Chicago Law School (the "Evans Study") concludes that consumers' net long term welfare loss is in fact between US\$22 and US\$25 billion dollars as a result of the Durbin Amendment.

The regulation of default interchange is rife with risks for unintended consequences. Although generally favorable for retailers, regulation has been uniformly negative for consumers, who experience increased costs, reduced benefits and the effects of diminished innovation.

Although retailers in Australia and the United States all have the access and opportunity to provide data proving that they have passed on savings to consumers, they have not done so.

The evidence that does exist shows that consumers have not seen overall cost reductions despite dramatic reductions in interchange.

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32 David Morrison. "Durban Reg Costs big Banks More than \$8 billion." Credit Union Times, May 3, 2012



Table Outlining the Consequences of Government Regulation of Interchange in the United States<sup>33</sup>:



The regulation of interchange and its effects on the many stakeholders in the payment system is an enormously important issue of public policy, particularly given its potential effects on the everyday lives of consumers and retailers alike.

<sup>33</sup> Source: Visa Inc. information sheet.

As such Visa recommends:

**1. The FSI recommend to the Federal Government the amendment of the PSRA to end the regulation of interchange in Australia through the revocation of the limits on interchange fees.**

- a. This would bring Australia back into line with the practice in which interchange is formally unregulated but is exposed to open and competitive market forces. The conduct of payment systems and other market participants would of course always remain subject to Australia's competition laws, which are a fundamental limit on the ability of any firm to act anti-competitively.
- b. This would also recognise the economic reality that regulation has not provided clear benefits to the Australian payment system, but instead has constituted a wealth transfer from Australian consumers to Australian merchants.

### Definition of a Payments System

In addition to the removal of the interchange limits, Visa sees a compelling case for the FSI to recommend to the Federal Government that the PSRA be amended to create competitive regulatory neutrality, with a particular focus on the scope, definition and application of what constitutes a "payment system".

As the DAE Report outlines:

*"Competition fosters improvements in productivity and leads to higher standards of living. In competitive markets, the equilibrium price and quantity of goods traded will result in the efficient use of resources. The goal of improving efficiency in the economy is helped by encouraging as much competition in a market as possible...If the burden of a regulation falls more heavily on some suppliers than others, it may have a negative impact on competition in a market. By raising costs relatively more for certain suppliers than others, it could inhibit their ability to offer attractive prices to customers".*

There is an opportunity to deal with the current challenges to competition and efficiency in the payments market, capturing current, new and future market entrants in recognition of an ever-evolving payments industry by revisiting the definition and scope of payment systems under the PSRA.

Section 7 (Definitions) of the PSRA defines a "payments system" as:

*"a funds transfer system that facilitates the circulation of money, and includes any instruments and procedures that relate to that system".*

This current definition is on the face of it, sufficiently wide to capture both three-party model payment systems and new entrant four-party model systems. For example, we submit that the American Express GNS business, Diners Club companion cards and any future UnionPay business all clearly fall under this

definition. In relation to these types of payment systems, it is not the PSRA definition that is the cause of the unlevel regulatory environment but the lack of automatic application of regulation, which is dealt with below.

However, in relation to non-traditional models of payment system, such as PayPal, Google Wallet and any number of yet unforeseen entrants and models, this definition may require amendment to increase its scope, clarity and future-readiness, one possible way of achieving this flexibly may be through the use of a definition contained in more easily reformed regulations made under the PSRA.

### Automatic Application

Under Division 2 of the PSRA, the RBA has discretion to designate a payments scheme as a “payments system” under the Act. Specifically, under Section 11 of the PSRA, the RBA designates payment systems if it deems it is in the “public interest” to do so.

As outlined only three schemes have ever been designated, namely Visa (12 April 2001 and then 23 February 2004 for debit) and MasterCard (12 April 2001), as well as eftpos (9 September 2004), despite the evolution of payments, the existence of schemes such as American Express, Diners Club and China UnionPay, as well as other companies now increasingly involved in payments such as PayPal and Google to name a few.

Equally Section 8 of the PSRA deals with the meaning of “public interest” as follows:

*In determining, for the purposes of this Act, if particular action is or would be in, or contrary to, the public interest, the Reserve Bank is to have regard to the desirability of payment systems:*

*(a) being (in its opinion):*

*(i) financially safe for use by participants; and*

*(ii) efficient; and*

*(iii) competitive; and*

*(b) not (in its opinion) materially causing or contributing to increased risk to the financial system.*

*The Reserve Bank may have regard to other matters that it considers are relevant, but is not required to do so.*

It seems challenging to see how the current unlevel regulatory playing field as outlined above is consistent with the RBA’s payments policy principles, namely the adoption of payment system policies that are to the greatest advantage of the people of Australia, the promotion of efficiency within the payment systems and the promotion of competition in the market for payment services.

Visa submits for the reasons outlined above, including the \$0.77 billion in avoidable costs faced by Australian merchants and end-user consumers, it is in the “public interest” for amendments to be made to the PSRA to remove the discretionary nature of the application of the PSRA and put in its place an automatic mechanism to capture such participants and create a level regulatory playing field. Even if

interchange limits are removed, as suggested under this Option, this automatic “covering of the field” remains critical. The PSRA and other relevant legislation contain other oversight, access and data collection powers and all payment systems should be similarly affected by its terms. This would remove the discretion of the RBA to determine through “designation” what constitutes a “payments system”, replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems.

This outcome is likely best achieved by requiring payment system operators to seek a license prior to commencing operations in Australia. This is analogous to most other regulated sectors, including banking and company regulation. This would also apply to incumbent operators, including currently regulated four-party model schemes and unregulated new entrant four-party model and three-party model schemes. Furthermore, this license requirement would extend to new traditional players such as China Union Pay, and to non-traditional payment system operators such as PayPal.

As such Visa recommends:

1. c. In addition, the FSI should propose that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a “payments system”, that is consistent with competitive realities, and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through “designation” what constitutes a “payments system”, replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems both traditional and non-traditional forms (as outlined in this submission).
- d. Under such an arrangement we would support the continuation of the RBA’s general oversight and data collection powers as established under the PSRA.

### **Maintaining Interchange Limits but Creating Parity**

If as outlined in our policy recommendations above, Option 1 (removal of interchange limits) is not supported, Visa submits that it remains critical for the FSI to recommend to the Federal Government that the PSRA be amended to ensure that, for the reasons outlined above, an appropriate, wide and clear definition of “payments system” is adopted.

Equally, it is critical that the PSRA be amended, also as outlined above, to build an automatic application mechanism into the Act, namely a license requirement for the operation of a payment system. In doing this, the discretion held by the RBA to designate and apply Standards should be removed.



In relation to interchange regulation specifically, all licensed payment systems would then be equally regulated, namely interchange or any interchange analogue would be limited at a common level and through a common mechanism. That is, interchange limits would be applied to all payment systems that involve interchange or interchange analogues, such as issuer rates.

Whilst this common limit and mechanism would be automatically applied rather than through the discretionary imposition of a “Standard” by the RBA, this common level and mechanism would still be determined by the RBA as the regulator. This is a comparable arrangement to the regulatory approach deployed in most regulated section, with the empowering legislation establishing the high-level arrangements, such as who is to be regulated, whilst the regulator makes key and consistent implementation decisions.

It is important to note that this would not constitute “new” regulation, merely the extension of existing regulation to new and future entrants offering the same products. This would address the significant market distortions currently negatively impacting the economic welfare of Australian merchants and end-user consumers.

As such Visa recommends:

**2. If Option 1 was unsupported and limits on interchange are to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA to ensure all interchange and interchange analogues are equally regulated.**

- a. We recommend this is best achieved by the FSI proposing that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a “payments system” and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through “designation” what constitutes a “payments system”, replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems, both traditional and non-traditional forms.

- b. All licensed payment systems would then be equally regulated, namely interchange or any interchange analogue would be limited at a common level and through a common mechanism. This common limit would be automatically applied rather than through the discretionary imposition of a “Standard” by the RBA, although the common level and mechanism would be determined by the RBA as the regulator. It is important to note that this would not constitute “new” regulation, merely the extension of existing regulation to existing, new and future entrants offering equivalent services.
- c. Under such an arrangement we would support the continuation of the RBA’s general oversight and data collection powers as established under the PSRA.
- d. This Option would re-set the PSRA to be much closer the regulatory norm across other sectors, such as banking and financial services, where the automatic application of regulation to all similar participants is the norm.
- e. This Option would also ensure the PSRA was prepared for the next 10-20 years of new entrants (both traditional and non-traditional), innovation and change in Australian retail payments.

## CONSUMER VIEWS ON A LEVEL PLAYING FIELD

### Consumers Support Visa's Policy Recommendations for a Level Regulatory Playing Field

Since the Wallis Inquiry in 1996, Australia's financial sector has been subject to a great amount of change. Whilst innovation in Australia's financial system, including the need to encourage new financial instruments and markets, is generally welcomed, regulation needs to keep pace with developments in payment systems and technology. This has an impact on consumers.

Visa has a significant interest in any review of the regulatory environment for payments systems as it relates to end-users of the payments system, namely consumers.

In formulating our response to the FSI, Visa set out to gauge and include primary consumer research to provide a consumer perspective on the payments system and the regulatory environment affecting the sector. As such, Visa commissioned JWS Research to conduct research with eligible Australian voters to explore perceptions of:

- Electronic payments companies;
- Awareness of existing industry regulations; and
- Attitudes toward current interchange regulations affecting Visa and MasterCard.

The primary purpose of the research was to explore attitudes toward interchange and assess support for uniformity in regulations, but the research also went further in exploring a range of potential policy solutions including:

- Eliminating or limiting merchant surcharges on credit card transactions;
- Limiting interchange rates across companies or eliminating limits entirely;
- Requiring electronic payments companies to be licensed to operate in Australia; and
- Applying uniform standards to the electronic payments industry.

### Research Methodology

First, JWS conducted four focus groups with credit card users in February, 2014. Groups were broken out as follows:

- 11 February; Parramatta, NSW: 1 focus group with heavy credit card users (consumers who use credit cards to pay for most purchases) and 1 focus group with consumers who pay for purchases with a mix of payment methods, including credit and debit card and cash.
- 12 February; Brisbane, QLD: 1 focus group with heavy credit card users (consumers who use credit cards to pay for most purchases) and 1 focus group with consumers who pay for purchases with a mix of payment methods, including credit and debit card and cash.

Upon completion of the focus groups, JWS secondly conducted an online survey of 1,500 adults nationwide in Australia. The survey was conducted between February 27 and March 4, 2014<sup>34</sup>.

### Research Executive Summary: Interchange from a Consumer Perspective

The research found that Visa is the most recognised and highly regarded (78 percent award Visa favourable ratings) of its competitive set. Overall, Australians were ultimately confused as to why current legislation would favour less well-known or established competitors in the electronics payments market, particularly when it comes to interchange rates.

- *The timing is right for a review of payments regulations.* Australians call for consistent regulation in the payments sector.
- **Three in five Australians (61 percent) support ALL three of Visa's main policy tenets:** requiring payments companies to be licensed to operate in Australia (so they can be regulated uniformly), applying the same limits on interchange rates across all payment schemes and establishing an independent regulatory body within government to enforce limits on credit card surcharges (see Surcharging section below).
- *Regulation is viewed as positive and necessary to protecting consumers and reputable businesses from unscrupulous practices by competitor organizations within the financial services industry.* Consumers believe (81 percent agree) it is necessary to update and review twenty year old regulations in order to ensure consumers and businesses are appropriately protected in light of new a quickly evolving market.
- *Regardless of their policy positions, consumers call on government to prioritise their review of regulations impacting the electronic payments industry as a priority.* Three-quarters (76 percent) of those polled say reviewing and updating policies impacting the electronic payments industry should be an important government priority compared to 16 percent of adults do not believe it should be a priority at this time.
- *Demand is high for interchange reform.* If the current regulations remain, then seventy-three percent (73 percent) of Australians support applying the same limits on interchange rates across the sector, including 37 percent who strongly support uniform limits.
- *Fairness in the marketplace on the public policy front.* While Australians may not feel personally affronted or affected by differences in interchange rates, Australians do not agree with or believe it is fair (24 percent fair, 57 percent unfair) to legislate competitive organisations differently.
- *In reform does not occur then there needs to be an even application of existing regulations.* There is a strong case to be made for regulatory change – 81 percent of Australians agree if government is going to regulate interchange rates for some companies, it should regulate rates for all companies.

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<sup>34</sup> Survey data was distributed and weighted to ABS population statistics to ensure survey demographics are representative of the larger Australian adult population. The margin of error on the base sample of 1500 interviews nationwide is +/- 2.5 percent at the 95 percent confidence level.

- *Consumer data is uncompromisingly clear in making a case for interchange reform.* When asked to choose between deregulating interchange rates, extending existing interchange limits to all payments companies, or leaving existing laws as is, only 9 percent favour leaving existing laws as is (52 percent favour uniform limits over all options presented).

### Testing Visa's Policy Proposals

Research efforts tested support for a range of policies and regulations impacting the payments industry. In relation to interchange, two key proposals were tested, outlined as follows:

- 1) Requiring all electronic payments companies to be licensed by the federal government in order to operate in Australia; and
- 2) Equalizing interchange regulations by applying the same limits to interchange rates for all types of credit cards or deregulating interchange rates entirely.

As we understand from the focus groups conducted, Australians are generally unaware of specific regulations impacting the electronic payments industry but assume, like most industries in Australia, companies like Visa, MasterCard, and American Express are subject to regulation (and that regulation is uniform across companies).

When provided with basic facts about existing regulation of rates, there is high public demand for updating existing interchange regulations, applying similar standards to companies across sector, and requiring all payments companies to adhere to the same limits to interchange rates as Visa and MasterCard.<sup>35</sup>

Upwards of three-quarters of Australians also support proposals for requiring all electronic payments companies to be licensed to operate in Australia and applying uniform limits on interchange rates across payments companies. In addition to high levels of support for each individual proposal tested, there is resounding and consistent support for Visa's main policy recommendations. Three quarters (76 percent) of Australians say reviewing and updating policies impacting the electronic payments industry should be an

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<sup>35</sup> The general questioning was as follows. Electronic payments companies are companies like VISA, MasterCard, and American Express which process electronic payments, like debit and credit card transactions, for banks and provide the technology which support electronic payments...

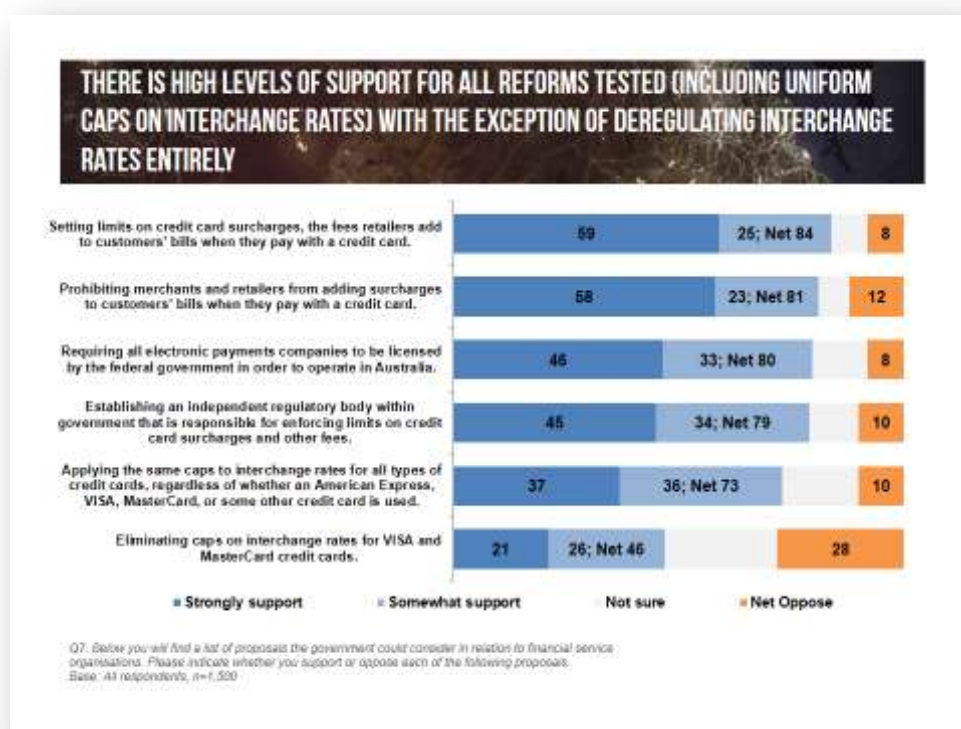
Every time you make a purchase with a credit card, your bank receives a fee, a percentage of the purchase price, for their role in reimbursing a retailer on your behalf. This fee is known as the interchange rate, and it is ultimately deducted from the amount the retailer receives as payment from its bank.

The Australian government set a cap on the average maximum interchange rate that banks can charge for processing payments made with VISA or MasterCard credit cards. There is no cap for credit card purchases made with other types of cards, such as American Express or Diners Club.

important government priority, compared to 16 percent who do not believe it should be a priority at this time.

**Three in five adults (61 percent) support all three of Visa's main policy recommendations:**

- 1) Applying the same limits to interchange rates across companies;
- 2) Requiring payments companies to be licensed to operate in Australia (so they can be regulated uniformly); and
- 3) Establishing an independent regulatory body within government to enforce limits on excessive credit card surcharges.



## Interchange Limits

In relation to applying the same limits to interchange rates for all types of credit card schemes, three-quarters (73 percent) of Australians nationwide support uniform implementation across all payment schemes of interchange rates for all types of credit card schemes, including one-third of Australians (37 percent) who strongly support uniform standards for interchange rates.

Australians support uniform limits on interchange rates by a 63-point margin - only 10 percent of people oppose proposed uniform limits and another 17 percent are unsure. Every demographic group also

supports uniform interchange regulation, and upwards of two-thirds of Australians across demographic groups supports applying the same limits to interchange rates for all types of credit cards. Support increases significantly with age and is highest among older men (52 percent strongly support compared to 37 percent among adults overall). This data is contained at Appendix B.

These findings are consistent between the survey and focus group components of the research, with focus group participants describing the need for common standards – and common regulation of interchange rates – across the electronic payments industry. In the focus groups respondents outlined their guidance on payment system regulations:

*"needs to be blanket across everyone who offers the same service as Visa and MasterCard."*

*"I think it has to be one way or the other. You can't have it where two of them are charged [one way] and you get new players coming into the market and acting outside of having these charges."*

*"The regulation's been there for 20 years and it has fallen excessively on the two (Visa and MasterCard), why not say well we'll bring them all in line? You're not creating new regulation, you're just expanding it to cover businesses that didn't come under that umbrella 20 years ago."*

*"I think it needs to be fair and it should be regulated that everyone has the same percentage, whatever that might be."*

Support for uniform limits to interchange rates remains strong from start to finish of the survey, even after people have heard arguments both for and against proposed changes to interchange rates:

- Initial support starts at 73 percent (37 percent strongly support) and closes at 77 percent (39 percent strongly support).
- Opposition starts at 10 percent and closes at 8 percent after information is provided about the issue.
- Two-thirds of Australians (64 percent) consistently support uniform limits on interchange rates in both instances, *while only 3 percent of adults consistently oppose.*

Australians clearly support legislation which subjects all electronic payments companies to the same regulations, favouring uniform limits on interchange rates (Option 2 in Visa's recommendations).

### Change is a Priority

Few Australians (9 percent) believe interchange regulations should be left as is and that no change is needed at this time.

In fact, Australians call on government to make reviewing and updating regulations impacting the electronic payments industry a priority. Three-quarters (76 percent) of Australians say reviewing and updating policies impacting the electronic payments industry should be an important government priority (7 percent the most important priority, 30 percent a very important priority, 39 percent a somewhat important priority).

Only 16 percent of Australians do not believe it should be a priority at this time. In the focus groups, participants were surprised to learn regulations have not been reviewed or updated in almost twenty years, especially considering how much the market has changed and grown in that time. They worry historical policies have created an uneven and unfair regulatory playing field and that consumer protections may be put at risk as unregulated (or less regulated) providers enter the marketplace.

*"I think legislation should catch up and create a level playing field."*

*"I think it is important to review and update regulations. The world is changing at a really fast pace, and this [regulations] obviously has not kept up with it."*

*"On principal, I think a lot of legislation fails to keep up with the times. Some of it hinders people from doing what they need to do. I think it should be a function of responsible government to review and update legislation..."*

### Fairness, Competition

It comes down to fairness, and Australians do not believe it is fair to regulate companies which offer the same services and compete against each other differently.

When asked to consider the fairness of existing interchange regulations which limit average interchange rates for Visa and MasterCard products but not its competitors<sup>36</sup>, 57 percent believe current regulations are unfair compared to 24 percent who think it is fair and another 19 percent who are not sure. Australians are five times more likely to believe current policy is "not fair at all" (28 percent) than "very fair" (5 percent). Every group believes current policy is more unfair than fair, particularly those aged 55+ (68 percent think it is unfair).

Focus group participants described in their own words why they tended to oppose current interchange regulations as described – their opposition is largely predicated on basic principles of fairness, particularly when it comes to public policy.

*"So Visa and MasterCard can charge 1 per cent, and they can't do any more, but AMEX can say oh we charge 3 per cent. Why should two be restricted but the other two [referring to American Express and Diners] can do what they want. Is that fair? That's not fair."*

*"You're limiting one company to how much they can earn but you're saying to the others earn as much as you want."*

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<sup>36</sup> Question wording: The Australian government set a cap on the average maximum interchange rate that banks can charge for processing payments made with VISA or MasterCard credit cards. There is no cap for credit card purchases made with other types of cards, such as American Express or Diners Club. Knowing this, how fair is current government policy when it comes to interchange rates?





*"It's just unfair on those that are being regulated that they can get someone come in and just charge whatever they want."*

Australians do not understand why the government would regulate companies which offer the same services differently. They firmly believe policy should ensure businesses compete based on the quality of their services rather than allowing some businesses to profit from an uneven regulatory environment.

*"It is not good, it is anti-competitive."*

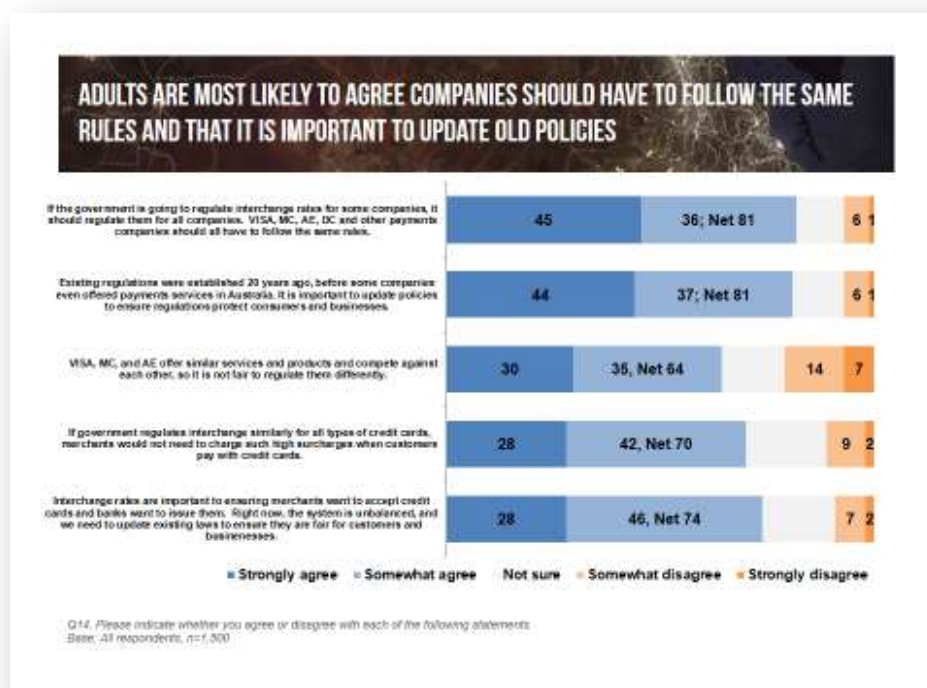
*"It's the same service, the same process, the same mechanism, the same amount of time, the same amount of effort. It should be the same charge."*

*"It is not a fair playing field. Visa and MasterCard are being disadvantaged. That means any other competitor that tries to come in will have an advantage....and it gets passed onto the consumer in surcharges or higher prices...If you have another company apart from Visa and MasterCard that allows banks to make more money...then merchants are going to put their prices up to cover the cost of the higher transactions."*

The data further confirms anecdotal concerns, and Australians overwhelmingly agree (81 percent net agree, 45 percent strongly agree) that:

*"if the government is going to regulate interchange rates for some companies, it should regulate them for all companies. Visa, MasterCard, American Express, Diners Club and other payments companies should all have to follow the same rules."*





## Licensing

Finally, as part of a larger package of reforms impacting the electronic payments industry, consumers support requiring licensed to operate in Australia. Support for licensing is largely driven by a desire to see basic consumer protections applied across the industry. As new companies offer electronic payments services in Australia, consumers want to ensure they are all held to the same level of standards and accountability. If an organization is officially licensed to operate as an electronic payments company, it will have to adhere to any guidelines that status requires.

Four in five Australians (80 percent) support requiring electronic payments companies to be licensed to operate in Australia, including 46 percent who strongly support licensing requirements. At least two-thirds of Australians across demographic groups support licensing requirements, though support increases with age: 68 percent net support, 29 percent strong support among 18 to 34 year-olds; 79 percent, 46 percent among 35 to 54 year-olds; and 90percent, 63 percent among adults aged 55+.

In fact, focus group participants assumed and *expected* payments companies would be licensed by the government to operate in Australia, though some struggled to articulate why licensing matters. Australians tend to believe licensing, and in turn regulation, is necessary in order to protect consumers from unfair or discriminatory practices, as well as to protect the security of their data.



*"I would imagine so."*

*"[To prevent] fraud, if anyone thought of doing it [setting up a payment company] you wouldn't know who's got your information, they could be hacking in, skimming."*

*"I would hope so. It would be safer. This unregulated, unlicensed company would have all your banking details."*



## SURCHARGING

As outlined in Visa's submission to the Commonwealth Consumer Affairs Advisory Council (CCAAC) in 2013, Visa has been concerned for many years now that the prevalence and excessive levels of surcharging in Australia are negatively impacting on Australian consumers. It is time to reform and improve current regulations. This section of our submission mirrors our earlier submissions lodged to CCAAC and RBA processes and also highlights concerns with the current position that the Australian Competition and Consumer Commission (ACCC) and ASIC might monitor excessive surcharging levels given the current powers of both ACCC and ASIC are insufficient to do so.

### History and Prevalence of Surcharging in Australia

Prior to earlier RBA changes which were announced on 27 August 2002 and came into effect in 2003, the Visa and MasterCard operated with 'no surcharging' rules. That is, under their respective governing rules it was stated that merchants could not surcharge transactions and acquirer members were expected to ensure this outcome from their merchant clients.

On 1 January 2003 the RBA introduced a new Merchant Pricing Standard which required Visa and MasterCard to remove this no surcharge rule. It allowed merchants to apply a surcharge when cardholders used a Visa, MasterCard or Bankcard to make a payment (closed card schemes, American Express and Diners Club offered matching undertakings to the RBA which allowed their merchants to start surcharging). There were no limits/caps placed on permitted surcharge levels.

The original 'no surcharge' policy was proactively established to protect consumers from merchants seeking to impose checkout fees thereby punishing consumers who choose the convenience, security, transparency and reliability of Visa over other methods of payment. This no surcharge rule remains in place in most jurisdictions in which we operate.

In 2002, Visa produced a paper which assessed the 'no surcharge rule'. The paper highlighted issues that may transpire if the RBA moved away from the 'no surcharge rule' ie that:

*"in the absence of the no surcharge rule, some merchants may be tempted to exploit their market power and surcharge consumers as much as the market can bear that is as much as possible, but not so much as to drive customers away. This is of particular concern in Australia because of our highly concentrated retail sector, so that some Australian retailers are likely to have substantial market power and therefore can 'get away with' surcharging excessively. Similarly, it is of concern in rural and regional areas where there is often limited competition in the retailing (and other) sectors."*<sup>37</sup>

Evidence indicates that in the handful countries that permit surcharging today, including Australia, some merchants have been penalising their customers with excessive surcharges that far exceed the cost of card acceptance.

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<sup>37</sup> pp 18-19, 'Credit Card Schemes in Australia' Visa 2002

Such surcharging has significant negative impacts on consumers by increasing consumer costs and negatively impacting on rising cost-of-living pressures while failing to provide any relevant “signal” to the cardholder.

CHOICE has conducted research over many years on the issue of surcharging and on 15 November 2010 released a report entitled *Credit Card Surcharging in Australia 2010*, which was commissioned by the New South Wales Government, and found the prevalence of surcharging in Australia was then very high, with 88 percent of 1,374 survey respondents reporting paying a credit card surcharge in the previous year.

When Visa assesses the current state of surcharging, we can identify both excessive and blended surcharging as two developing and expanding practices, despite the recent introduction of the new RBA rules on surcharging.

### Excessive surcharging

Visa has also been deeply concerned by the spread of surcharges that go beyond a merchant recouping the genuine costs of accepting card payments through the inclusion of a growing range of other normal business costs as a justification for a higher surcharge level. These ‘add-in’ costs are often only tangentially or marginally related, if they are related at all, to the costs of accepting electronic payments.

The implementation of surcharging was never meant to become a source of unrestrained cost offsetting or extra profit for some merchants.

The abovementioned East & Partners *Merchant Acquiring and Cards Markets* research program also found that “the average surcharge applied has also increased over the past five years from 1.4 percent to 2.5 percent”. Indeed, the RBA has itself in the 2008 *Australia’s Payments System* report highlighted that, in some cases, merchant surcharges ‘appear considerably higher’ than the actual costs.

### Recent Reforms

There have been some recent regulatory reforms in relation to surcharging in Australia.

In June 2012 the RBA determined that it would vary the previously mentioned Standards in relation to surcharging on scheme credit and debit transactions. Whereas the Standards of 2003 required the removal of the ‘no surcharge rule’ in from scheme operating rules, the 2012 variation permitted, from 18 March 2013, card scheme rules to again limit surcharges, in this case to the merchant’s “reasonable cost of acceptance”.

In principle, when compared to no rules around surcharging in any way (the situation between 2003 and 2012), Visa welcomed the RBA’s efforts on this matter.

A supplementary Guidance Note was also issued by the RBA with the goal of assisting schemes, merchant and financial institution as to what the RBA deemed the “reasonable cost of card acceptance. This Guidance Note indicated that the reasonable cost of card acceptance, includes, but is not limited to, the merchant service fee. An extensive list of additional possible inclusions if offered in the Guidance Note including,

among other things, the ability to include other cost payable to acquirers, costs payable to other services providers, other merchant costs, fraud costs and any fixed equipment, systems or development costs.

As Visa set out in our public submissions to the review process into the Guidance Note, we feel this is a very broad list of potential inclusions.

### Implementation of new limitation allowance

As outlined, from 18 March 2013, schemes that have been legally defined as designated “payment schemes” by the RBA under the PSRA, such as Visa, were again voluntarily permitted to limit surcharge levels in Australia. That is, the RBA Standard itself has no direct impact on merchants, but rather designated card schemes have been empowered to attempt to effect the implementation of this new limitation.

Acting in good faith and in accordance with the revised RBA Standard, Visa duly altered our operating regulations as of the permissible date to include the new reasonableness limitation.

Equally, the RBA Guidance Note states (emphasis added):

*“The Standards allow the card schemes to limit surcharges to ‘the reasonable cost of acceptance’, which includes, but is not limited to, the merchant service fee...the merchant service fee charged to the merchant forms part of the reasonable cost of acceptance... there is nothing in the Standard which prevents a scheme from seeking verification of costs in the event that it believes a merchant is surcharging in excess of reasonable costs”<sup>38</sup>*

Naturally, to determine if any given surcharge is unreasonable (that is, excessive), the reasonable cost of accepting card payments for a particular merchant must first be understood. As such, Visa introduced an Acquirer’s Surcharging Program (Program) at the same time as amending our operation regulations. The aim of this program was to establish a low compliance, low cost, arms-length, commercially protective mechanism through which the new Standard could be practically implemented. The Program aims to assist merchants and acquirers in calculating their reasonable cost of card acceptance pursuant to the guidelines issued by the RBA. It provides a calculator to measure quantitatively a merchant’s “reasonable cost of acceptance” against the qualitative criteria included in the RBA’s Guidance Note.

It is important to remember however that the Visa system resides on a set of operating regulations that only client institutions subscribe to, that is, financial institution issuers and acquirers. As a four-party scheme, we have little or no direct contractual relationships with Australian merchants. That relationship is normally and appropriately a bilateral one between such merchants and their acquirer, with the acquirer being a Visa client who has subscribed to the Visa operating regulations.

The situation is therefore one in which card schemes have been asked, under the new Standards to (admittedly voluntarily), seek to assess, limit or alter the activities of a class of entities (merchants) with which we do not have direct connections or means to effect or influence change, leaving only the option of using our operating regulations to require our clients, in a two-step removed process, to seek to do so.

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<sup>38</sup> Reserve Bank of Australia: Guidance Note: Interpretation of the Surcharging Standards – November 2012 pp 1

There are also various commercial conflicts in how such a system would operate. Visa clearly has incentives to maintain positive relationships with our acquirer clients and merchants, as do those clients with their customers, the merchants. CHOICE recently reported on this difficult commercial scenario, with CHOICE CEO Alan Kirkland stating on 29 May 2013:

*"We urgently need strong enforcement and policing of the surcharging rules, beyond what Visa and MasterCard can bring to bear through their commercial dealings, and we are glad the government has recognised this."*<sup>39</sup>

There is also a further risk in that even if both schemes legitimately act in the same manner, this potentially could raise competition legal matters for which the RBA is not empowered to provide any safe harbor protection even though schemes may be simply seeking to act in good faith and implement the content of the revised RBA Standard.

Naturally this is a very challenging scenario for all involved and the fact we have seen very little change in any merchant surcharging behaviour since 18 March 2013 indicates an empirical case as to the scale of these challenges.

Again CHOICE recently made public statements on this matter, finding that despite the RBA's new rules on "reasonable costs", excessive surcharging remains in existence and stating that:

*"it's apparent that any compliance and auditing program is not having any real effect."*<sup>40</sup>

## **Surcharging in Other Jurisdictions**

### Global Practice

Visa notes that most jurisdictions around the world support prohibitions on excessive surcharging, including through Visa's rules.

### United States

In the United States, the recent litigation settlement incorporated revised Visa rules that prevent surcharging of debit transactions and limit surcharging of credit transactions to a merchant's cost of acceptance. However it should be noted that a significant number of states in the US prohibit surcharging by statute, including several of the largest states such as New York and California.

### United Kingdom

Most recently the United Kingdom Government took action against excessive surcharging and under new rules require traders to "make sure that any payment surcharges are representative of the actual processing cost involved and they do not charge more than this"<sup>41</sup>.

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<sup>39</sup> <http://www.choice.com.au/media-and-news/consumer-news/news/credit-card-surcharging-update.aspx>

<sup>40</sup> <http://www.choice.com.au/media-and-news/consumer-news/news/credit-card-surcharging-update.aspx>

The new rules, the *Consumer Rights (Payment Surcharges) Regulations 2012*<sup>42</sup>, came into force on 6 April 2013 and are aimed at putting an end to unscrupulous market practices with a focus on hidden surcharges at the back end of transactions where consumers may be slugged with excessive fees and hence charged with a much higher price than they were entering in to at the front of the transaction process.

Most relevantly, section 4 of the abovementioned regulations state that:

*"Excessive charges prohibited, Section 4. A trader must not charge consumers, in respect of the use of a given means of payment, fees that exceed the cost borne by the trader for the use of that means".*<sup>43</sup>

Minister Jo Swinson MP stated in a media statement announcing the new rules on 6 April 2013, that:

*"I am delighted that the ban will stop retailers from cashing in by charging add-on fees that simply do not reflect the real cost of processing the payment. Consumers will be less likely to get nasty surprises as they will have a clearer and more transparent breakdown of what they are paying for"*<sup>44</sup>.

According to the Minister, in the UK the Office of Fair Trading (OFT) estimated that consumers spent around £300 million on payment surcharges in 2010 in the airline sector alone. In the same media release the Minister revealed:

*"Surcharges are often cited in the airline sector but are also imposed by some retailers in other sectors, including rail, event tickets, cinemas, car dealerships and hotels. The Office of Fair Trading (OFT) estimate that consumers spent around £300 million on payment surcharges in 2010 in the airline sector alone. The OFT's consumer research conducted in 2010 found that 87 per cent of consumers objected to extra charges for credit cards and 91 per cent objected to extra charges for debit cards."* – 6 April 2013<sup>45</sup>

Richard Lloyd, the executive director of Which? in the UK however revealed some of the issues relating to enforcement to the BBC when he stated that:

*"For it to be effective, there must be a tough enforcement regime and companies must play fair and not pass costs on to customers in other ways. We will be monitoring the ban closely and want people to tell us about surcharges they think are excessive."*<sup>46</sup>

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<sup>41</sup> [www.legislation.gov.uk/uksi/2012/3110/made](http://www.legislation.gov.uk/uksi/2012/3110/made) Statutory Instruments **2012 No. 3110** Consumer Protection The Consumer Rights (Payment Surcharges) Regulations 2012

<sup>42</sup> <http://www.legislation.gov.uk/uksi/2012/3110/made> Statutory Instruments **2012 No. 3110** Consumer Protection The Consumer Rights (Payment Surcharges) Regulations 2012

<sup>43</sup> <http://www.legislation.gov.uk/uksi/2012/3110/made> Statutory Instruments **2012 No. 3110** Consumer Protection The Consumer Rights (Payment Surcharges) Regulations 2012

<sup>44</sup> <https://www.gov.uk/government/news/crackdown-on-rip-off-card-charges-begins> 6 April 2013

<sup>45</sup> <https://www.gov.uk/government/news/crackdown-on-rip-off-card-charges-begins> 6 April 2013

<sup>46</sup> <http://www.bbc.co.uk/news/business-22042309> 5 April 2013



In the UK the OFT is the authority who will receive complaints for contraventions of the rules. Under the new UK rules, consumers can receive refunds for surcharges that are deemed excessive. Consumer's rights of redress are clearly outlined in the regulations and are as follows:

*"Where a trader charges a fee in contravention of regulation 4 - (a) any provision of a contract requiring the consumer to pay the fee is unenforceable to the extent of the excess charged, and (b) the contract for the purposes of which the payment is made is to be treated as providing for the excess to be repaid to the consumer."*<sup>47</sup>

### Victoria, Australia

There have been recent moves in Australia to address excessive surcharging within particular industries such as the taxi industry. Visa supported the Victorian Government's May 2013 announcement to halve taxi surcharges (from 10 percent to 5 percent) in Victoria as part of its broader inquiry into taxis, this policy change came into force on 1 February 2014. Visa's view is that taxi surcharges have been an unfair cost on consumers for too long. Visa hopes to see taxis in other States follow suit and reduce their surcharging levels. In Victoria the power of enforcement is with the Taxi Services Commission and this includes civil and criminal sanctions.

### Consumer Opinions on Surcharging

Visa submits there is a clear consensus in the community about the need to implement policies which address and limit surcharging by merchants.

Nationwide consumer research conducted by UMR Research from 1-4 June 2013 found that<sup>48</sup>:

- *Australians are opposed to merchant surcharging.* They believe that merchants who surcharge, surcharge more than it costs them to accept cards and do not do enough to inform customers
- *There is very limited awareness of the RBA's changes to the surcharging rules, and in fact most believe that the proportion of merchants surcharging has increased in recent months.* Nevertheless, there is strong support for further government action to protect consumers from excessive surcharging
- *Just over six in ten Australians say they have personally been faced with a surcharge in the past six months.*
- *The merchants where surcharging is most apparent are airlines and restaurants, followed by grocery.*

<sup>47</sup> <http://www.legislation.gov.uk/ukxi/2012/3110/made> Statutory Instruments **2012 No. 3110** Consumer Protection The Consumer Rights (Payment Surcharges) Regulations 2012

<sup>48</sup> The UMR Research methodology included 1000 interviews conducted online as part of UMR's Nationwide Omnibus Survey. Those polled were age: 18+; enrolled voters. Quotas are applied & data is weighted by age, sex and location to reflect actual population distribution. Fieldwork was conducted from 1- 4 June 2013. Maximum margin of error at 95% confidence level for n=1000: ±3.1%

Negative community attitudes to surcharging were also present in the 2013 research undertaken for Visa by UMR Research in 2013. That research also found that the majority of consumers are strongly opposed to surcharging for making electronic payments.

As a comparison, UMR Research also conducted quantitative research in 2004 of consumer attitudes towards the RBA's regulatory changes from 2003, including on surcharging. The survey found that 30 percent of respondents had paid an extra fee using credit cards and 58 percent indicated that they were less likely to shop at the retailer. Based on the 2013 UMR results, we can see that the incidence of surcharging has increased substantially from the 2004 survey. The 2013 UMR research found that most respondents disapprove of payment surcharges with 79 percent of Australians disapproving (82 percent for Australians with cards). As such we feel there is a strong case for a prohibition on surcharges. 66 percent of those Australians polled believe merchants are not doing enough to notify customers of surcharges (68 percent for Australians with cards). As such we feel there is a strong case for disclosure and transparency. In the UMR Research most Australians believe merchants who surcharge are gouging with 62 percent of all respondents (68 percent of card-holders) thinking the amount merchants generally surcharge their customers is more than what it actually costs them to process those cards. In terms of the incidence of surcharging, most Australians say that surcharging has increased recently with 62 percent of Australians believing this (64 percent amongst card-holders).

As mentioned above, consumers have little knowledge of the recent RBA changes on surcharging but are support further action on surcharging practices.

As part of the 2014 JWS consumer research conducted in March 2014, it found that:

- Reactions are strong for policies which would limit (84 percent net support, 59 percent strongly support) or eliminate (81 percent, 58 percent) altogether merchant surcharges on credit card purchases.
- At the very least, there are calls to appoint an independent government agency to enforce limits on credit card surcharges, particularly if limits already exist but are not properly enforced: 79 percent net support, including 45 percent strong support; only 10 percent oppose; and 11 percent not sure.

The 2014 JWS Research also found that consumers are angered by industries which apply surcharges which seem outsized to the actual cost of the transaction – such as those used by hotels, airlines, and taxi services which charge an inflated, average fee regardless of the type of credit card used. Several consumer quotes in the 2014 JWS Research include:

*"Cabs have a flat ten dollar fee or something like that, it is a ridiculous fee to use your credit card in a cab. I don't recall but I think that was regulated."*

*"That's where we are getting ripped off. I bought four airline tickets and I got charged 5 dollars per seat. Not five dollars for the whole transaction, but five dollars per seat for four seats."*

*"I am strongly against having to pay a fee over what it actually costs an organisation to provide the service."*

Based on the abovementioned 2014 JWS Research and 2013 UMR Research, it is clear that Australians are dissatisfied with the levels of surcharging and “gouging” in the Australian market and would support Government/regulatory intervention to rectify this issue.

### **Visa’s Position**

It is Visa’s position that excessive surcharges in Australia have been an unfair cost burden on consumers. Penalising consumers via added fees or “surcharges” for using the secure, transparent and reliable electronic payment systems such as Visa is a practice Visa has always strongly opposed in the interests of consumers. There is no evidence that shows surcharging has led to a reduction in prices charged by merchants.

Visa’s view about the need to limit surcharging remains despite the positive reforms put in place by the Reserve Bank of Australia (RBA) which took effect from March 2013 that allowed a voluntary “reasonable cost of card acceptance” limitation to be put in place by card schemes.

Visa is committed to playing a role in addressing excessive surcharging. We believe that the current means of implementing the “reasonable costs of card acceptance” test places Visa squarely as the quasi-regulatory umpire with merchants and acquirers – a position which is problematic. To give weight to the RBA’s new limitation rules, enforcement by a statutory body would be the best policy option. This will provide accountability through more transparency and disclosure by merchants and enforcement of penalties. Monitoring and enforcement by a statutory body will ensure that surcharging rules are appropriately adopted by merchants.

There are numerous policy measures that could be considered, however on balance Visa contends that the following potential solutions warrant assessment.

### **Prohibition on surcharging**

Visa believes surcharging should be banned as we feel surcharging is very frequently in excess of the merchants true costs of acceptance, particularly disincentivises the uptake of efficient electronic payments. Surcharging is also welfare reducing, that is, merchants who surcharge generally have control of certain industries or market power. Surcharging is now prevalent across not just credit card transactions but also debit card transactions.

We contend that a ‘no surcharge rule’ for transactions in Australia, coupled with a clear approach to enforceability of such a rule via a statutory authority, would be a pro-consumer policy package. Policymakers need to balance industry regulations with consumer benefits. On surcharging, the market is failing consumers with excessive surcharges still a feature. As such, a direct intervention is warranted by policymakers.

### **Limitation on surcharging**

If surcharging is not to be prohibited in the Australian market, Visa supports the ongoing imposition of a limitation of some form on the level of permissible surcharging of transactions.

An environment with no limitation in place, as occurred between 2003 and 2013 is, we feel, untenable and not in Australian consumer end-user interests. It is important however that this limitation be clear, quantifiable and commonly understood by all parties.

The options that appear available to maintain a limit include either continuing with the current RBA developed approach which uses the “reasonable cost of card acceptance” as set out in the accompanying RBA Guidance Note, or possibly further clarifying and quantifying that limitation so that all market participants have a consistent interpretation of the definition.

### **A new approach needed on enforceability**

Finally, and regardless of which of (a) an overall surcharge ban , or (b) a limitation of some form, is enacted, it is critical that the position be enforceable. As such we strongly support creating enforceability of any policy approach to surcharging via empowering a statutory body with powers to monitor and enforce surcharging rules in Australia.

It could be argued for example that existing regulators have the infrastructure which may allow them to effectively discharge enforcement responsibilities more effectively than card schemes. For example ASIC and the ACCC both have consumer hotlines that could be utilized for consumers to inform them about excessive surcharging practices in the market. Regulators could be easily supported by mandated legislation or regulation which empowers them to carry out such a function.

The current approach which calls on payment schemes to implement and enforce surcharging limitations through a two-step process involving acquiring banks is very challenging. In our view it is empirically clear from actual events since the 18 March commencement of Visa’s best good faith efforts to effect change that only enforceability by a statutory authority will stand a realistic chance in bringing about a reduction in excessive surcharging and be in the interests of consumers. This holds true whether a ban or a limit is supported and implemented.

In terms of this case for intervention on enforcement, in the 2013 UMR poll 74 percent of Australians (77 percent of cardholders) believed the then Government was not doing enough to protect them from excessive surcharges. Solutions that consumers supported in the 2013 research include:

- 79 percent (80 percent of cardholders) support a complaints phone line or website where customers can report excessive surcharging; and
- 67 percent support a Government agency to resolve disputes and enforce any rules on surcharging where customers feel they have been unfairly surcharged

As outlined above, the legal developments in the UK have included charging the UK Office of Fair Trading with this task. In the Australian context, we feel that one of either ASIC or the ACCC are already established statutory authorities that are natural candidates who would be well equipped to take up this function.

As such, Visa recommends:

3. In relation to surcharging, the FSI propose to the Federal Government that the PSRA, or any other relevant legislation, be amended to include a legislative prohibition on surcharging in Australia.

4. If Option 3 was unsupported and some level of surcharging is to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA, or any other relevant legislation, to clearly limit permitted surcharging and establish a public enforcement mechanism to ensure adherence to such a limit.

## CONCLUSION

The DAE Report on competitive neutrality in payment systems and the JWS Research on consumer opinion towards interchange and surcharging regulation point to the need for positive reforms in the payment system.

Visa has simple policy recommendations that could form the basis of the FSI proposal to the Federal Government.

### **In summary, Visa recommends:**

1. The FSI recommend to the Federal Government the amendment of the PSRA to end the regulation of interchange in Australia through the revocation of the limits on interchange fees.
  - a. This would bring Australia back into line with the practice in which interchange is formally unregulated but is exposed to open and competitive market forces. The conduct of payment systems and other payments market participants would of course always remain subject to Australia's competition laws, which are a fundamental limit on the ability of any firm to act anti-competitively.
  - b. This would also recognise the economic reality that regulation has not provided clear benefits to the Australian payment system, but instead has constituted a wealth transfer from Australian consumers to Australian merchants.
  - c. In addition, the FSI should propose that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a "payments system" that is consistent with competitive realities, and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through "designation" what constitutes a "payments system", replacing this with a clearer determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems both traditional and non-traditional forms (as outlined in this submission).
  - d. Under such an arrangement we would support the continuation of the RBA's general oversight and data collection powers as established under the PSRA.
2. If Option 1 was unsupported and limits on interchange are to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA to ensure all interchange and interchange analogues are equally regulated.
  - a. We recommend this is best achieved by the FSI proposing that the PSRA or Regulations made under the PSRA be amended to include a wider, clearer definition of what constitutes a "payments system" and that the PSRA be structured so that all such payments systems are automatically required to seek a license prior to commencing operations in Australia, including all existing schemes. This would remove the discretion of the RBA to determine through "designation" what constitutes a "payments system", replacing this with a clearer

determination of the Parliament that both better reflects the current and future state of payments in Australia and that would fairly and equally capture all payments systems both traditional and non-traditional forms (as outlined in this submission).

- b. All licensed payment systems would then be equally regulated, namely interchange or any interchange analogue would be limited at a common level and through a common mechanism. This common limit would be automatically applied rather than through the discretionary imposition of a "Standard" by the RBA, although the common level and mechanism would be determined by the RBA as the regulator. It is important to note that this would not constitute "new" regulation, merely the extension of existing regulation to existing, new and future entrants offering equivalent services.
  - c. Under such an arrangement we would support the continuation of the RBA's general oversight and data collection powers as established under the PSRA.
  - d. This Option would re-set the PSRA to be much closer to the regulatory norm across other sectors, such as banking and financial services, where the automatic application of regulation to all similar participants is the norm.
  - e. This Option would also ensure the PSRA was prepared for the next 10-20 years of new entrants (both traditional and non-traditional), innovation and change in Australian retail payments.
3. In relation to surcharging, the FSI propose to the Federal Government that the PSRA, or any other relevant legislation, be amended to include a legislative prohibition on surcharging in Australia.
4. If Option 3 was unsupported and some level of surcharging is to be maintained, the FSI should recommend to the Federal Government reforms to the PSRA, or any other relevant legislation, to clearly limit permitted surcharging and establish a public enforcement mechanism to ensure adherence to such a limit.

Visa looks forward to ongoing dialogue with the FSI Chair, Panel and Secretariat regarding our submission and policy recommendations.

**Appendix A**

**Deloitte Access Economics Report – “Competitive Neutrality in Australian Payments Markets” -  
March 2014**

**See separate attachment.**





## **Appendix B**

**Extracts from JWS Research, March 2014**



**Q8. Applying the same caps to interchange rates for all types of credit cards, regardless of whether an American Express, Visa, MasterCard, or some other credit card is used.**

	Net Support	Strongly Support	Net Oppose	Difference Score
	%	%	%	
<b>Total</b>	<b>73</b>	<b>37</b>	<b>10</b>	<b>+63</b>
<b>18 to 34</b>	<b>63</b>	<b>23</b>	<b>17</b>	<b>+47</b>
<b>35 to 54</b>	<b>73</b>	<b>39</b>	<b>8</b>	<b>+64</b>
<b>Aged 55+</b>	<b>83</b>	<b>46</b>	<b>5</b>	<b>+78</b>
<b>Men &lt; 55</b>	<b>69</b>	<b>31</b>	<b>13</b>	<b>+56</b>
<b>Men 55+</b>	<b>87</b>	<b>52</b>	<b>6</b>	<b>+81</b>
<b>Women &lt; 55</b>	<b>67</b>	<b>34</b>	<b>11</b>	<b>+56</b>
<b>Women 55+</b>	<b>79</b>	<b>40</b>	<b>4</b>	<b>+75</b>
<b>NSW/ACT</b>	<b>74</b>	<b>38</b>	<b>11</b>	<b>+63</b>
<b>VIC</b>	<b>69</b>	<b>30</b>	<b>11</b>	<b>+58</b>
<b>QLD</b>	<b>77</b>	<b>42</b>	<b>9</b>	<b>+68</b>
<b>SA</b>	<b>69</b>	<b>36</b>	<b>6</b>	<b>+63</b>
<b>WA</b>	<b>74</b>	<b>39</b>	<b>7</b>	<b>+67</b>
<b>LNP</b>	<b>78</b>	<b>40</b>	<b>10</b>	<b>+68</b>
<b>ALP</b>	<b>75</b>	<b>38</b>	<b>8</b>	<b>+67</b>
<b>Other</b>	<b>74</b>	<b>39</b>	<b>8</b>	<b>+66</b>
<b>Credit Card Users</b>	<b>79</b>	<b>41</b>	<b>9</b>	<b>+70</b>

**Q10. Which of the following comes closest to your own point of view:**



	Eliminate Caps	All Same Caps	No Change	Not Sure
	%	%	%	%
<b>Total</b>	<b>19</b>	<b>52</b>	<b>9</b>	<b>20</b>
<b>18 to 34</b>	<b>22</b>	<b>42</b>	<b>13</b>	<b>23</b>
<b>35 to 54</b>	<b>19</b>	<b>51</b>	<b>7</b>	<b>23</b>
<b>Aged 55+</b>	<b>16</b>	<b>62</b>	<b>7</b>	<b>15</b>
<b>Men &lt; 55</b>	<b>23</b>	<b>44</b>	<b>12</b>	<b>22</b>
<b>Men 55+</b>	<b>13</b>	<b>70</b>	<b>8</b>	<b>10</b>
<b>Women &lt; 55</b>	<b>18</b>	<b>50</b>	<b>8</b>	<b>24</b>
<b>Women 55+</b>	<b>19</b>	<b>56</b>	<b>6</b>	<b>19</b>
<b>NSW/ACT</b>	<b>17</b>	<b>56</b>	<b>9</b>	<b>19</b>
<b>VIC</b>	<b>21</b>	<b>45</b>	<b>12</b>	<b>22</b>
<b>QLD</b>	<b>20</b>	<b>53</b>	<b>7</b>	<b>20</b>
<b>SA</b>	<b>16</b>	<b>50</b>	<b>10</b>	<b>24</b>
<b>WA</b>	<b>21</b>	<b>54</b>	<b>6</b>	<b>19</b>
<b>LNP</b>	<b>17</b>	<b>56</b>	<b>10</b>	<b>17</b>
<b>ALP</b>	<b>23</b>	<b>52</b>	<b>9</b>	<b>16</b>
<b>Other</b>	<b>13</b>	<b>60</b>	<b>7</b>	<b>20</b>
<b>Credit Card Users</b>	<b>19</b>	<b>57</b>	<b>9</b>	<b>15</b>