Card Acquiring Market Review

Stakeholder submissions to consultation CP22/1

June 2022

Contents

Names of individuals and information that may indirectly identify individuals have been redacted. Aside from the non-confidential responses listed above, we received one additional submission. We carefully analysed this along with the other submissions, but concluded that it did not contain any information that is relevant to, or responds to, our call for views. This submission has therefore not been included.

Association of British Travel Agents (ABTA)

PSR – Market Review into card-acquiring services: consultation on remedies

ABTA Submission – April 2022

Introduction

ABTA is the largest travel association in the UK, representing over 4,300 consumer brands – accounting for approximately 90% of the package holidays sold within the UK. Our Members range from small, specialist tour operators and independent travel agencies specialising in business and leisure travel, through to publicly listed companies and household names, from call centres to internet booking services, and from high street retailers to homeworking travel agents. Pre-pandemic, ABTA Members' combined turnover was more than £40 billion, comprising both consumer and business travel expenditure.

Responses to consultation questions

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

ABTA is supportive of the planned remedies and believes the measures outlined will improve the situation for merchants, especially SMEs who often find it difficult to compare the offerings of various merchant acquirers. However, we are concerned that the decision not to proceed with specific interventions on price simplification will limit the overall effectiveness of these remedies. As such, ABTA urges the PSR to keep matters under careful review, with set timelines for analysing the impact of the measures adopted in this package in terms of merchant understanding and the competitiveness of the card-acquiring marketplace.

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?

Yes, ABTA believes this remedy will be helpful in improving merchant understanding and the ability to make initial comparisons between suppliers.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

ABTA broadly agrees with the content outlined in 2.12 and 2.13 of the consultation documents. Previous engagement with Members has shown that transaction charges, POS terminal leasing arrangements, security and fraud prevention have been particularly important areas for the travel sector.

An area not covered within the response is additional security required by merchant acquirers. One of the biggest challenges for most merchants is that if their acquirer requires them to provide additional security; typically, in the form of a letter of credit or cash deposit. The Acquirer will not return that additional security until such time as their exposure has fallen to zero. That means that when a merchant wants to change acquirer, there will be a period in which the merchant will be obliged to provide security to two different acquirers. Not many businesses can comfortably afford to do that and it is especially burdensome for SME operators.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

While ABTA believes all merchants will benefit from improved transparency, SMEs are less able to dedicate resource to investigating the offerings of card-acquiring companies and make comparisons.

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

ABTA broadly welcomes the potential for DCTs to improve merchant understanding of the card-acquiring marketplace. ABTA Members have consistently reported difficulties understanding the different offers available and pricing structures.

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

ABTA is uncertain about the utility of price comparison tools within a purely B2B environment. ABTA would ask the PSR to investigate whether there are comparable areas where B2B price comparisons tools have been introduced.

The role of DCTs will also be limited by the decision not to pursue specific interventions on price-simplification. As outline in question 1, we urge the PSR to keep this under careful review.

QUESTION 7: What information do you think should be provided to merchants by DCTs?

ABTA Members have indicated information on pricing, and the availability and top-line details of non-pricing elements such as settlement times, security, and fraud prevention are priorities.

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

ABTA broadly agrees with this statement.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

N/A

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

ABTA would draw attention to our response to question 1 around price-simplification.

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

While ABTA believes all merchants would benefit from a more competitive card-acquiring marketplace, SME businesses will particularly benefit as they are less able to dedicate the significant resource required to navigate the current marketplace given the complexity and lack of standardised information available.

QUESTION 12: Do you agree that provision of information by providers of cardacquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

ABTA agrees with this proposal, which will provide a useful prompt to encourage switching behaviours and drive a more competitive card-acquiring industry.

QUESTION 13: Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

ABTA agrees with the approach outlined as we are concerned that any attempt to enforce contractual deadlines could have unintended consequences.

QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

ABTA notes with interest the timescales offered for Pay TV providers (2.53). While there are no contractual deadlines in card-acquiring contracts, similar timeframes attached to the ending of any minimum period would be useful in driving competition and encouraging merchants to become better informed about the marketplace and ability to switch providers. ABTA would also support annual reminders for merchants not tied to minimum contract lengths.

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

- **Information on the purpose of the communication**
- **How much the merchant paid for their card.-acquiring services in the previous 12 months**
- **The amount that the merchant would save by switching to the lowest-priced option**
- **Information on non-price benefits of switching**
- **Information on POS terminal switching**
- **Information on how switching works, and what merchants should do if they wish to switch**
- **A call to action**

N/A

QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

ABTA Members have regularly suggested that email is their preferred form of communication in our annual Member Surveys. On a practical level, it will be important that careful thought is given to ensuring that any communications in relation to triggers are clearly stipulated as being related to a contracted service, and part of the provision of that service, to avoid the risk of communications being overlooked or discarded as junk. Raising general business awareness of such communications would play a role in this area and could be an area where the PSR partners with trade bodies such as ABTA.

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

N/A

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

The existence of extended agreements for terminals forces merchants to continue to use a provider, or to be significantly penalised if they wish to change. All the above points become largely meaningless unless the PSR addresses the issue of terminal leases.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

N/A

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

As outlined in response to question 18, above, ABTA believes that PSR action to address the length of contracts for terminal leases is essential if merchants are to be able to benefit from the possibility of changing suppliers and increased competition in the merchant acquiring space is to be achieved.

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

N/A

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

N/A

QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

ABTA would support regular surveys of merchants across different market segments, which could be supported and disseminated in partnership with trade bodies.

QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

N/A

QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

N/A

QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

N/A

<u>**Further information**</u>**:** please contact publicaffairs@abta.co.uk.

Association of Convenience Stores (ACS)

ACS | the voice of local shops

ACS Submission: CP22/1: Card-acquiring market review initial remedies consultation

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Payment Systems Regulator about initial remedies following the card-acquiring market review. ACS represents over 33,500 local shops and petrol forecourt sites including Co-op, BP, McColls and thousands of independent retailers, many of which trade under brands such as Spar, Budgens and Nisa. Further information about ACS is available at Annex A

Offering card payments is essential for convenience store operators, but the acquirer market is complex and difficult to engage with for time-poor independent retailers who cannot utilise head office expertise. The cost of processing card payments has increased significantly in recent years for retailers, yet 61% have not compared or switched providers in the past three years[1]. This figure is too high for a functioning and accessible market. A key outcome of this review must be greater engagement with comparing providers from small businesses, supporting the PSR's central outcome for 'effective competition in the provision of payment services'[2].

We support all four proposed remedies, with a price simplification remedy reserved based on monitoring of market outcomes after implementation. Summary boxes will improve pricing transparency for retailers and encourage direct comparisons. Their success is reliant on acquirers supplying retailers with their transaction data to input into a trusted DCT website or share with other providers. We support acquirers being required to notify retailers of forthcoming contract expiry dates three months and one month in advance, based on standardised messaging which communicates the financial savings that may be possible from switching and tools for a smooth transition. POS terminals should be portable between acquirers to remove barriers to switching, the risk of downtime and unnecessary electronics waste.

[redacted]

<u>Summary Boxes</u>

Q1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Yes, provided the 'generic' summary boxes contain relevant and sufficient information to facilitate effective comparisons between acquirers (see Q3). Summary boxes should be available via an online comparison website (DCT).

The complexity of bills makes it very difficult for convenience retailers to accurately compare card acquirers. Some smaller retailers are still receiving 'blended' bills with no breakdown of costs, while retailers receiving 'interchange ++' pricing can struggle to forecast acquirer bills or account for costs outside the Merchant Service Charge (MSC) when comparing acquirers. Poor transparency about costs and changes in MSC bills can act as a barrier to retailers understanding bills and then comparing the wider acquiring market.

Q2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

The approach to allow generic and bespoke summary boxes will aid transparency for all retailers comparing the market while also allowing personalised pricing information based on business' payments

[1] ACS Voice of Local Shops Survey: November 2020
[2] PSR Strategy 2022

needs. Generic summary boxes can give all convenience retailers some confidence to compare acquirers, while bespoke summary boxes will allow retailers to increase the accuracy of their comparisons. This will be particularly relevant where a store or business has a distinct payments profile from the broader sector it operates in, for example when many (56%) convenience retailers started processing card-not-present transactions to enable grocery deliveries during the pandemic[3]. Summary boxes should be available via an online comparison website, to prevent different website formats between providers from obscuring access to the boxes for comparison purposes.

Q3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants.

All summary boxes, whether generic or bespoke, should contain an overall merchant service charge (MSC) per transaction which can be split into average interchange fees, scheme fees and acquirer fees per transaction. Pricing structures vary between acquirers, adding to the complexity and time commitment needed to compare acquirers, which is why key costs outside the MSC should also be included in summary boxes as a typical total non-MSC cost line. These non-MSC costs include acquirer authorisation fees, payment gateway fees, setup and PCI compliance fees, chargeback fees and minimum monthly MSCs. These costs are opaque and make it harder for merchants to compare the acquiring market and influence how acquirers compete for merchants.

Non-price indicators should also be available via all summary boxes. We have identified with members the following non-price factors which are key when approaching the acquirer market; fast settlement, ease of onboarding, assistance with legal requirements, customer service and omnichannel services. Considerable emphasis is given to fast settlement by retailers for cashflow purposes and related to onboarding, integrating effectively with ePOS till systems.

Convenience retailers should not need to request bespoke summary boxes to make pricing comparisons. Acquirers should be motivated to provide transparent information via generic summary boxes given the diminishing returns of creating bespoke summaries for smaller businesses with a lower volume of card transactions. Producing bespoke quotes would also require retailers to have easy access to data on the number, value and type of card transactions accepted or projected for the business, in a format which can be shared easily with other acquirers.

Q4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants?

Within the convenience sector, independent retailers would benefit most from the implementation of summary boxes. The smaller the business, the less time and resource tends to be available to allocate comparing the market for card acquirers. 71% of convenience stores are operated by independent retailers and 90% of independents operate one store[4]. However, summary boxes will be useful for larger businesses operating in the sector too, particularly if set formats for bespoke summary boxes are implemented.

Summary boxes should be designed to be informative based on the data needs outlined at Q3. They should not be advertised as ‘generic’, which is negative language that could disengage small businesses from using them, or potentially lead to retailers asking for bespoke summaries while acquirers focus their resource to develop bespoke quotes for larger businesses. We would prefer ‘Headline Summary Box’.

<u>Digital Comparison Tools (DCTs)</u>

Q5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to.

Q6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

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[3] Covid-19 impact survey

[4] ACS Local Shop Report 2021

There is not widespread use of DCTs for acquirers already due to complex and opaque pricing structures. Existing price comparison websites also tend to work off business data estimates rather than accurate merchant needs, and mainly provide quotes from ISOs which ultimately gain a commission from acquirers for landing new business. Engaging with these DCTs still requires retailers to interpret their bills and gather related information, which can remain a convoluted process.

Introducing summary boxes is therefore important to the success of promoting DCTS. We agree with the Competition and Markets Authority (CMA) that DCTs are a force for good by making it easier to shop around thereby 'improve competition – which is a spur to lower prices, higher quality, innovation and efficiency'[5].

Q7: What information do you think should be provided to merchants by DCTs?

DCTs should be required to provide the standard summary box information to merchants. DCTs should also produce bespoke summary boxes, generated based off the data inputted when available.

Q8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

Q9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Retailers would feel comfortable sharing their transaction data with DCTs. The key issue is how practicable and easy it is to do so. Signing up to share this data automatically with DCTs via acquirers should be possible when signing a new contract or renewal, without affecting eligibility for any acquirer deals. In addition, retailers should also be able to access a breakdown of their transaction data from acquirers in a standardised format which can be input into DCTs to produce quotes in a bespoke summary box format. To reduce reliance on the provision of data from merchants, acquirers and ISOs should be required to share pricing information with DCTs on a regular basis and when changes occur.

Q10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

Small business customers are better compared to domestic customers in key service and utility markets, including for card acquirers, than larger business, due to their shared lack of expertise and dedicated resource for negotiating deals. This underlines the importance of raising awareness about DCTs amongst merchants. To become trusted as an impartial resource to compare providers, DCTs must also clearly signal where sponsored deals may result in higher placement in search results for certain deals.

DCTs should be associated with a kitemark scheme, resulting in, for example, 'approved by CMA' or proof of compliance with the Financial Conduct Authority. Ofcom operates an accreditation scheme for price comparison calculators, which could be opened to acquirer market DCTs[6].

There is also a need to ensure retailers can assess their needs before effectively comparing the market. The PSR should produce easy and accessible guidance aimed at small merchants about how to do so. ACS would be happy to work with regulators on such guidance.

One area for future work is addressing the perception amongst small businesses that switching will simply be too much hassle or too complicated to achieve. Therefore, combined with the business guidance mentioned, the PSR/FCA should consider a concerted communications campaign to encourage such activity, looking to the successful Current Account Switch Service as best practice.

[5] CMA. Digital Comparison Tools Market Study: Final Report. 26 September 2017.
[6] https://www.ofcom.org.uk/consultations-and-statements/category-2/price-calculator-accreditation

Q11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants?

The development of DCTs will most benefit small businesses, which process a significant volume of card transactions but do not have the economies of scale to negotiate effectively with acquirers direct.

<u>**Contract Trigger Measures**</u>

Q12: Do you agree that provision of information by providers of cardacquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

Yes. This should be done using agreed standardised messaging used by all acquirers to best engage merchants.

Q13: Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?

We believe both could have been pursued with fixed-term contracts containing provisions to automatically rollover without engagement. There is no clear reason why acquirer contracts could not be established without any provision for the continuance of services following a fixed-term period. This is commonplace in other industries.

Q14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter?

We recommend trigger messages to merchants are sent three months and one month before contract expiry. The final reminder should be clearly communicated as a final reminder.

Q15: Please comment on the content of potential merchant prompt messages.

Merchant prompt messages should be simple and focussed first on price, reflecting the lack of expertise amongst small business customers. Messages should therefore communicate how much the merchant has paid for their services in the previous year and how much they could save by switching to the lowest-priced option. Content should also emphasise that switching can be simple and signpost to supporting resources, including DCTs and guidance. We support replicating the practice in energy markets whereby suppliers are required to inform customers that cheaper tariffs are available to them.

Q16: What is the best method of delivering trigger messages to merchants?

Email is best to encourage follow-up activity which will take time such as comparing providers. Letters are ineffective, particularly when not personally addressed (e.g. ‘the occupier’).

Q17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants?

Email triggers should minimise the use of jargon-free language to reflect the diversity of small business merchants.

<u>**POS terminals and POS terminal lease contracts**</u>

Q18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution?

Switching card acquirers can become a further elongated process for retailers when handling the switchover of acquirer-supplied payment terminals. Contracts for these terminals typically run for five-year terms and auto renew. The associated termination fees are a barrier to switching, especially as often this hardware only works with a specific acquirer.

Retailers would value POS terminal portability, to remove the need for hardware replacement and installation when switching acquirers for very similar machines. This would also minimise other IT requirements, for example to ensure hardware is integrated into security software and cardholder data remains encrypted. The IT processes needed to switch POS equipment without restricting the use of card payments for consumers is complex and a notable consideration for retailers.

Q20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Yes. POS terminals offered by an acquirer or ISO typically operate with only one acquirer (including where the acquirer or ISO refers the merchant to a third-party POS terminal provider). This is a significant barrier to switching due to fears of downtime and/or additional staff training. Convenience retailers typically 'bundle' their provider of POS hardware with their acquirer due to perceptions this reduces the likelihood of IT failures.

Widespread portability of POS terminals would enable the removal of contract termination fees after a minimum term limit, encouraging further switching behaviour. Termination fees already do not apply in acquirer contracts longer than six months – the same should apply for POS equipment.

__Monitoring Outcomes__

Q23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market.

ACS has conducted research about how retailers compare the acquirer market and any subsequent switching behaviour. November 2020 polling of 1,210 independent and symbol retailers finds that 61% had not compared or switched acquirers in the past three years, while 48% of retailers who have compared in the past three years did not choose to switch[7]. We would be happy to support with measuring outcomes by conducting additional polling activity.

[redacted].

[7] ACS Voice of Local Shops Survey: November 2020

Annex A

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 46,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.

ACS | the voice of local shops

WHO WE REPRESENT

INDEPENDENT RETAILERS

ACS represents almost 19,000 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions.

These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES

ACS represents over 14,000 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits.

Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES

ACS represents over 13,000 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls and others.

Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR

WHAT WE SELL

In 2020, the total value of sales in the convenience sector was £44.7bn.

The average spend in a typical convenience store transaction is £7.46.

WHO WE ARE

There are 46,955 convenience stores in mainland UK. 72% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.

OUR COLLEAGUES

The convenience sector provides flexible employment for around 412,000 people.

13% of independent/symbol stores employ family members only.

HOW WE OPERATE

22% of shop owners work more than 60 hours per week, while 24% take no holiday throughout the year.

72% of business owners are first time investors in the sector.

OUR COMMUNITIES

Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors.

80% of independent/symbol retailers have engaged in some form of community activity over the last year.

ECONOMIC CONTRIBUTION

Between August 2019 and May 2020, the convenience sector invested over £585m in stores.

The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1,200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1,200 independent and symbol retailers which is combined with responses from multiple businesses representing over 3,000 stores.

ACS LOCAL SHOP REPORT

Annual survey of around 2,400 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 6,700 stores. The Local Shop Report also draws on data from Lumina Intelligence, IGD, Nielsen and William Reed.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

For more information and data sources, visit www.acs.org.uk

Adyen

Payment Systems Regulator
12 Endeavour Square
London E20 1JN

Attn: Card-acquiring market review team
Email: cards@psr.org.uk

Amsterdam, 23 June 2022

Subject: PSR Card-acquiring market review initial remedies consultation

In response to the initial remedies' consultation into the supply of card-acquiring services, dated January 2022 (**Remedies Consultation**), Adyen N.V./ Adyen UK Ltd. (**Adyen**) is pleased to provide the following feedback for your consideration.

General Comments

Having reviewed the final market review report of November 2021 and the Remedies Consultation, Adyen is pleased to see that PSR considered Adyen's response to the Interim report and Remedies Consultation and appreciates PSR's effort to identify the merchant's challenges and encourage a fair and transparent card-acquiring market.

Greater pricing transparency

A. Summary boxes: With reference to your questions 1 to 4, as previously communicated, Adyen shares the same views with PSR regarding the importance of fair and transparent pricing for all card-acquiring merchants. Adyen through its IC++ pricing model ensures merchants can benefit from the cap on interchange as intended by the Interchange Fee Regulation and allows for IFR savings to be more widely passed through. Similar to the so called "Bespoke individual summary boxes", Adyen supports and provides to its customers clear, transparent, and simple invoices ensuring they are well informed of, and enabling them to compare acquiring costs in case they decide to extend a flexible contract or enter into a new one with a different acquirer.

As far as generic summary boxes are concerned, Adyen doubts the feasibility of these and questions if they will be bringing any added value, enabling comparisons or empowering any merchant interests, considering not only the diversity of merchants' nature, of their business needs and respective consumption data, but also the service range of the different acquirers. In addition, there is a risk the summary boxes may over-simplify the merchant's decision-making process (*particularly less sophisticated or mature merchants*) focusing only on the price elements without regard to the crucial non-price leverages such as the authorisation rates, settlement times, payment method coverage and other benefits of an acquirer's service range (merchant support services, security, fraud prevention, currency conversion etc.). As a result, Adyen is of the view that the use of Summary Boxes could potentially hinder like-for-like comparison of services by merchants.

As an alternative, Adyen would like to emphasize and recommend its practice with clear, transparent, and simple invoices. This is proving particularly beneficial for smaller merchants who may be more vulnerable to the impairments potentially caused by complex and unclear pricing models, combined with lengthy rolling lock-in periods.

B. Access to comparison tools: In response to your questions 6 to 9 regarding the Digital Comparison Tools in the card-acquiring market, Adyen is of the view that the nature of the Card-acquiring market, including differing business models, diverse acquirers' technological offering together with the variety of merchant industries, merchant segments and their needs are a challenge for the development of accurate and trustworthy Digital Comparison Tools. Adyen, then, doubts how comfortable merchants would feel to share their card-acquirer transaction data with DCTs. Adyen, therefore, supports PSR's consideration commissioning a feasibility study to understand the potential role of DCTs for card-acquiring services.

The remedies for a great pricing strategy seem to be tailored more to the traditional payments as a commodity, where the payment service provider is an element of the payment process *(and differentiation is generally price driven)*, rather than the payments as a technology, where the provider delivers value across the technology stack and operating model. There can be no like-for-like comparison between traditional payments and payments as technology and in such cases, merchants run the risk in both the cases they refer to generic summary boxes and/or digital comparison tools to miss not only non-price elements, but also the return on investment payment technology solutions could offer them.

Please do not hesitate to reach out if you have any further queries.

Kind regards,

[redacted]

[redacted]

[redacted]

American Express

[redacted]

American Express: Response to PSR initial remedies consultation for the supply of card-acquiring services in the UK

13 April 2022

[redacted]

Introduction

American Express welcomes the opportunity to engage with the Payment Systems Regulator (PSR) regarding its proposed remedies in the supply of card-acquiring services.

The PSR has indicated that its draft remedies are driven by concerns regarding card-acquiring services for Visa and Mastercard. As the PSR is aware, American Express operates a closed loop three party card scheme in the UK whereby it is both the issuer and acquirer of transactions. [redacted]

With regard to the PSR's specific proposals, American Express supports the PSR's overall objectives, including improving transparency for merchants, as we believe that effective competition leads to good outcomes for merchants and consumers. However, we have concerns about some of the proposals, including whether they will achieve the PSR's intended aims.

We have responded to the PSR's consultation questions in turn below. In addition, we would draw the PSR's attention to the following key points:

1. **Remedies must be tailored and proportionate, with clear carve-outs, to avoid unnecessary regulatory burden and unintended consequences for smaller competitors whose practices do not give rise to the concerns requiring intervention.** American Express' model does not give rise to the same concerns as those of the dominant four party schemes, yet – if remedies are imposed on all providers of card-acquiring services – we will be impacted by the regulatory burden introduced to remedy such concerns. Regulatory intervention should be **tailored** and **proportionate** having regard to differences between different business models.
2. **The benefits of remedy proposals must be carefully weighed against and proportionate to the potential regulatory burden introduced by any changes.** Significant time and resource will be required to implement any one or combination of the proposed remedies. This process will take longer if there is a need for engagement and alignment across industry to develop a consistent approach. In addition, there will need to be significant engagement between industry and the PSR if there is uncertainty over the requirements, as, for example, has been the case in relation to Strong Customer Authentication. It is critical that the PSR provides a realistic transitional timeframe for implementation of any final remedies.
3. **£50 million annual card turnover is not a workable threshold for identifying merchants for whom remedy proposals should be applied.** American Express has previously expressed our concerns regarding certain aspects of the analysis underpinning the conclusions in the market review, particularly regarding the broad range of merchants in scope of the finding that "*the supply of card-acquiring services does not work well for small and medium-sized merchants and large merchants with annual card turnover between £10 million and £50 million*". We recognise that the PSR has identified these merchants as requiring the benefit of remedies based on its analysis. However, we remain concerned that this broad threshold may cover merchants that have different needs and levels of expertise. For instance merchants within this threshold may be multinational and – while their annual card turnover

may be less than £50 million in the UK – they may be very large merchants at European or global scale.

In addition, a £50 million annual card turnover threshold is not a workable or practical threshold for identifying the merchants for whom remedies should be introduced. [redacted] It would be helpful to allow providers of acquiring services flexibility in how they define and identify the merchants for whom a given remedy is required, targeting remedies at the smallest merchants for whom remedies are likely to be most appropriate.

4. **Further consultation and careful consideration of detailed remedy proposals are critical.** We note that during its webinar on 22 March 2022 the PSR expressed a desire to move at pace in deciding and implementing remedies for the supply of card-acquiring services. Given the various factors that remain uncertain and require further consultation with industry, we ask the PSR to take the time to carefully design and consult fully upon any remedy proposals that it decides to take forward to avoid unintended consequences and, where possible, pursue a phased approach to implementing the remedies

[redacted]

1. **Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?**

[redacted]

American Express understands that the PSR's findings and proposed remedies regarding pricing transparency are primarily driven by concerns regarding card-acquiring on behalf of the dominant four party schemes. As American Express has expressed previously to the PSR, anecdotally our experience has also been that merchants – particularly smaller merchants – may find it difficult to understand the full price that they are paying in relation to card acceptance for the dominant four party schemes.

In that context, we agree in principle that standardised information for small merchants from their provider of card-acquiring services on the price that the merchant is paying for Visa and Mastercard transactions may make it easier for these merchants to compare the overall price that they are paying.

That said, the Interchange Fee Regulation already sets out requirements regarding the provision of information to merchants. Whether or not supplementary summary information boxes that are issued in addition to these requirements will in fact improve merchants' ability to search and compare providers will depend on whether the boxes provide a **simple** and **meaningful** point of like-for-like comparison. To achieve this, summary boxes should reflect a merchant's individual spend mix and how this impacts the total price that the merchant is paying. The design of the summary boxes should also provide flexibility for different models so that providers are not required to provide information on fees that they do not charge.

2. **Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?**

For the reasons outlined in response to question 1, American Express agrees that bespoke summary boxes with information on total price based on an existing merchant's individual spend mix could – in principle – be helpful for small merchants to aid the comparison of the total price that they are paying for Visa and Mastercard transactions.

However, American Express does not agree that a generic summary box to be published by providers of card-acquiring services on their websites would be helpful for merchants. In fact, generic boxes may have the opposite effect of introducing additional confusion if the information contained in the box is not representative of the pricing available to merchants based on their individual circumstances.

Key reasons why generic boxes would not provide merchants a meaningful or helpful point of comparison include that:

- **Generic boxes would not help merchants understand the total price they are paying based on their individual spend mix.** As outlined above, our experience indicates that it may be difficult for merchants to calculate the total cost of card acceptance that arises from the various fees that apply in the context of four party schemes for their individual spend mix. A generic pricing box published by a card-acquirer on their website will not address this fundamental issue. Even if the generic box outlines, as the PSR has suggested, prices for the most common card types in the UK, it would not identify for the merchant how these are relevant to its own transaction volumes. To the contrary, such boxes may be confusing and misleading for small merchants who do not have the time or resource to investigate their individual spend mix and then interpret generic pricing accordingly.
- **There is no single generic price that is available to all merchants** [redacted]

[redacted]

- **As explained above, there is no single, generic price that is available to all merchants.** We note that the PSR has – in its recent webinar – suggested that it may require multiple generic boxes to be published broken down by merchant industry and/or sector. [redacted]
- **Disclosing American Express' confidential and competitively sensitive pricing information to our competitors would be contrary to fundamental principles of competition law**. It is well established under competition law rules that confidential pricing is a form of competitively sensitive information that must not be shared with competitors. Requiring the publication of generic summary information boxes on websites – particularly if broken down by merchant sector or size – would undoubtedly provide competitors with direct visibility of American Express' highly confidential pricing strategy contrary to the principles of competition law.
- **Such a requirement and the harm to competition that would result is neither warranted nor proportionate in the current circumstances.** American Express is a small competitor that offers a pro-competitive and differentiated choice for merchants and consumers. Unlike the dominant four party card schemes we are not a "must have" card. [redacted]
- **A requirement to publish our confidential information would be detrimental to our business and ultimately undermine our ability to compete with Visa and Mastercard, resulting in harm to merchants and ultimately consumers.** Historic experience has shown that the broad-brush application of regulatory intervention originally intended to remedy concerns with the dominant four party schemes leads to unintended consequences for smaller competitors whose business models do not involve the same practices. As the PSR is aware, the EU Payments Package led to our licensing business no longer being viable in the EEA. Imposing a requirement to publish generic summary boxes on American Express, may also lead to unintended consequences for merchants and consumers by harming American Express' ability to continue to compete effectively with the dominant schemes. The PSR has been clear in its five-year strategy and other statements that it has concerns about the dominance of Visa and Mastercard for the future of retail payments. It is crucial that any interventions taken by the PSR support – not hinder – the growth of effective competition to the dominant schemes.

For these reasons, if the PSR proceeds with proposals for a generic summary box, we would ask that three party schemes competitors such as American Express be excluded from the scope of the regulatory requirement.

3. Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

The threshold of £50 million annual card turnover in the UK covers a broad spectrum of merchants with different needs and resources. As an acquirer of only American Express transactions, American Express does not have a clear view of which merchants fall within the different sub-segments of annual card transaction volume that the PSR used when conducting its analysis. It is therefore difficult to comment on these specific sub-segments.

That said, we expect that small merchants who may not have the time or resource to fully assess the total cost of card acceptance for four party scheme transactions are most likely to benefit from the implementation of bespoke summary boxes. We would therefore urge the PSR to focus on targeting bespoke summary boxes for (and limiting the scope to) the smallest domestic merchants.

From an implementation perspective, total annual card transaction volume is not a practical means of defining the merchants that are to be in scope of regulatory requirements. [redacted]

4. Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants.

American Express welcomed the insight that the PSR provided in its webinar of 22nd March into the type of format that it is considering for summary information boxes.

Having considered this, our observations are that:

- We agree in principle that prices should be separated out by card type, in particular for credit cards and debit cards, and that the total MSC should be provided for each card type. We are also supportive of an approach that illustrates the price merchants are paying for different types of transaction – e.g. cross-border cards vs domestic cards.
- We welcome the PSR's recognition that bespoke summary information boxes for existing merchants would need to reflect a merchant's individual spend mix. The format shared by the PSR in its webinar suggests providing the overall percentage represented by the four most commonly used cards for most merchants (e.g. hypothetical Card Types A, B, C and D represent 90% of a merchant's transactions). We expect that for a merchant to best understand the prices that it is paying for its own spend mix, it would likely be more useful for a percentage were to be provided against each card type (e.g. hypothetically, Card Type A: 40%, Card Type B: 40%, Card Type C: 15%, Card Type D: 5%).
- In addition, another mechanism that may help merchants to understand the effective price that they are paying in the context of their spend mix is to provide a total weighted average cost of acceptance for transactions in the previous 12 months separated out for debit cards and credit cards. This would provide simple headline figures that merchants could look at to understand the overall rate that they are paying for the acceptance of debit cards and the acceptance of credit cards.
- To avoid confusing and potentially misleading merchants, it is important that any standardised format has flexibility to be adapted based on the provider's business model. [redacted]

[redacted]

- We note that the PSR's initial consultation document also proposed including information on potential savings from switching (or in the context of trigger messages, "the amount the merchant would save by switching to the lowest-priced option"). [redacted] It is unclear how this requirement would apply to our model.

5. Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

6. What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

7. What information do you think should be provided to merchants by DCTs?

8. Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

It is not clear that digital comparison tools (DCTs) such as price comparison websites would offer merchants a meaningful and easy to understand "like for like" comparison in the context of the supply of card- acquiring services for the following reasons:

- Providers of card-acquiring services do not all have the same business model. American Express, as the sole acquirer of American Express transactions, only acquires merchants for American Express transactions. A merchant that contracts directly with American Express would need to enter into separate card-acquiring relationships to accept Visa and Mastercard transactions. Similarly, American Express does not provide terminal leasing arrangements and a merchant that we acquire will need to source its own terminals. In contrast, a payment facilitator may offer a higher price but offer merchants a service that aggregates the acceptance of transactions in relation to multiple brands of card for its sponsored merchants – offering convenience and simplicity for a higher price. Such distinctions may not be easily comparable through tools such as a price comparison website.
- There are also many other non-price factors that contribute to the value a merchant receives for card-acquiring services, not all of which are readily comparable through a DCT. For example, the value that American Express offers when competing to acquire merchants includes increased business from a high spending cardholder base; investments and efforts in targeted marketing to those cardholders, fraud mitigation, business-building initiatives, including dedicated payment consultants, services such as Safekey, rewards and other cardholder and merchant benefits and services such as the Shop Small Campaign. These cannot be readily compared or made visible through a price comparison website.

If DCTs are not able to provide a "like for like" comparison then – contrary to the PSR's objectives – they may simply make searching and switching more confusing for merchants.

It should also be noted that price comparison tools may themselves introduce additional challenges for merchants, which will require stringent controls from the PSR. This has been recognised by other regulators such as the Financial Conduct Authority (FCA), which identified that – among other things – price comparison websites pose risks of consumers being sold products that do not meet their demands and needs. The FCA has also highlighted risks from ineffective governance arrangements, poor culture, and poor operational controls.

With respect to the provision of data to DCTs:

- Please see our response to question 2 above. For the reasons outlined there it would be difficult to provide meaningful generic pricing that could be used by a third party to produce an estimate of prices available to prospective merchants and we have significant concerns about being required to disclose our highly competitively sensitive pricing information and/or strategy to third parties.
- There are a broad spectrum of options for how the provision of transaction data relating to existing merchants to DCTs could be achieved and the costs that would be associated with facilitating these. Merchants already have some existing ability to share such data with third party providers should they choose to do so. At the other end of the spectrum, an “open banking” or “open data” type approach involving access for registered third parties to specific data through standardised APIs would require potentially significant technology investments and extensive industry consultation over a long period of time. It would therefore be helpful to have greater clarity on the direction that a potential remedy would take in order to respond in detail on this.

Given the concerns outlined above, American Express urges the PSR to take the time to undertake a feasibility study and engage in further consultation and analysis to consider whether regulatory intervention is warranted with respect to DCTs.

A phased approach to the introduction of remedies would be helpful to allow careful assessment of both the substance and scope of any potential intervention on DCTs and, if simpler alternative remedies are introduced successfully in the meantime, whether such regulatory intervention is necessary or proportionate.

9. Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

10. Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this

As noted above, further clarity is needed on how the PSR envisages that card transaction data would be shared and how DCTs will be regulated in order to provide meaningful feedback on these questions. In general, we expect that merchants’ confidence or comfort levels would depend on factors such as the nature of the data to be shared, the security and governance around data sharing processes, and the effectiveness of DCTs.

In particular, if the PSR is considering an “open banking” or “open data” approach to enabling merchants to consent to sharing their transaction data through the use of APIs it is important to recognise that this is not a ‘quick win’ and would require extensive consultation. Experience from other initiatives in relation to “open banking” or “open data” around the world have shown that abstract or uncertain regulatory requirements do not lead to good outcomes. Examples of the questions that would need to be addressed include, among others: which providers would be subject to the remedy (e.g. would the requirements apply initially only to certain providers akin to the CMA nine in Open Banking?), which organisation will have responsibility for developing and managing relevant framework, specifications and certifications (e.g. does the PSR have the appropriate expertise to perform this function, would the OBIE (or its successor) or another entity be brought in?), what data would be in scope of the remedy, how would third parties be validated, how would merchant and acquirer data be protected and so on. The introduction of such a remedy would require significant time and investment across the industry over a number of years.

11. Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

As expressed earlier in this response, our general view is that remedies should be targeted at (and limited in scope to) the smallest domestic merchants. However, we have concerns regarding whether regulatory intervention to support DCTs is appropriate in the context of card-acquiring.

12. Do you agree that provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

American Express agrees in principle that the provision of a trigger message to consider switching might improve merchant engagement. How effective such a remedy would be is likely to depend on the nature and content of the trigger message.

13. Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

Yes, as expressed in our response to the PSR's interim report:

- American Express does not agree that contracts without a fixed end date act as a barrier to switching where a merchant is able to terminate at will on reasonable notice with no exit fees. Contrary to the PSR's intention, requiring end dates may create barriers to switching if contracts ceased to allow parties to terminate at will.
- Moreover, introducing a 'hard stop' end date to all contracts could lead to significant unintended consequences. These include creating a cliff edge for business continuity for smaller merchants and creating costs of negotiating and agreeing new contracts for merchants who are typically already time and resource poor. [redacted]

14. What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

Merchants are likely to be best placed to comment on the timing for delivery of trigger messages that would be most effective for them. [redacted]

[redacted]

[redacted]

15. Please comment on the content of potential merchant prompt messages. Please provide any views you have on the categories of information and others you think would be helpful

Please refer to our response to question 4 above with regard to the information that could be included in summary information boxes.

16. What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

We note the PSR's comments during its webinar of 22nd March that the PSR seeks to minimise the administrative burden introduced by the trigger messages and, for example, does not currently propose to require posted hard copy letters for this reason. American Express welcomes the PSR's recognition of the importance of minimising the potential costs associated with implementing trigger messages. To achieve this the best approach to delivering trigger messages may simply be allow flexibility for providers to incorporate trigger messages into an existing form of communication to merchants, such as a statement or email.

17. Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

We expect that small, domestic merchants who may not have the time or resource to fully assess the total cost of card acceptance for four party scheme transactions are most likely to benefit from the implementation of trigger messages. We would suggest that trigger messages are targeted at these merchants.

For the reasons set out in response to question 3 above, we suggest considering whether there are other ways to define and identify the merchants for whom a given remedy is required and to consult upon this further.

18. To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b)POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

American Express broadly agrees that the feature of concern that the PSR has identified could be addressed by POS terminal portability. Moreover, terminal portability or interoperability would also mitigate the unintended consequences that might otherwise arise from frequent switching of terminals.

As explained in our response to the PSR's interim report, our experience as an acquirer is that merchants who choose to accept American Express may cease to be able to accept American Express card transactions for varying periods of time when they switch terminal providers. This is typically because, unlike Visa and Mastercard, American Express is not a "must have" card and POS terminal providers (for whom Visa and Mastercard card-acquiring may be the priority) therefore will not always provide their terminals set up for American Express card acceptance. [redacted]

[redacted] Ensuring that a merchant's existing terminals are portable when the merchant switches between card-acquiring services would avoid such outcomes while addressing the PSR's concerns regarding the potential for POS terminals and their contracts to act as a barrier to searching for and switching to competing card-acquiring services.

19. Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

As American Express does not provide terminals we are not in a position to comment on whether this is technically possible.

20. Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

As American Express does not provide terminals we do not have visibility of POS terminal contracts.

21. What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

As American Express does not provide terminals we are not best placed to comment on the likely impact of new technology or changes in merchant and customer behaviour with respect to terminals.

22. Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

As American Express does not provide terminals we cannot comment on the commercial impacts of portability for terminal lease providers.

23. Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

24. Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

25. What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

26. Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

American Express welcomes the PSR's acknowledgement that regulatory intervention should be pursued only where the benefits of a remedy or package of remedies outweigh the costs of such remedies.

Payment acceptance is rapidly evolving. Merchants are increasingly able to accept a range of underlying payment types, incorporating not only different card-acquiring models, but also a growing array of other e-commerce and POS payment types (e.g. payment initiation/real time payments, buy now pay later, wallets). The benefits of proposed remedies should be assessed in this context. Summary boxes will not help merchants navigate their way around these new payment types and, as constituted, this remedy is not future proof. We expect uptake in these alternatives to continue to increase and as such the benefit of a summary box for merchants will decline. For card acquirers however, the costs associated with setting-up and maintaining a summary box for merchants will become increasingly disproportionate compared the benefit merchants receive.

We note that the PSR has identified the costs of changing IT systems to extract information for bespoke summary information boxes and trigger messages as well as the costs of providing transaction data to merchants as categories of costs that will need to be considered. We agree with these and have the following additional comments:

- The cost benefit analysis may not be the same for all providers of card-acquiring services. For example, the cost of implementing a measure such as the provision of bespoke summary information boxes is likely to significantly outweigh the incremental benefit in the context of providers such as American Express [redacted]
- Significant business time and resource may be required to interpret and implement regulatory changes as illustrated in recent years with respect to the introduction of Strong Customer Authentication.
- While there may be some shared costs of implementation across remedies, it is also important to consider whether adopting a phased approach could lead to the conclusion that certain remedies are no longer necessary thereby avoiding unnecessary costs. For example, if the PSR's concerns were to be addressed through bespoke summary information boxes and trigger messages then it may be unnecessary to introduce additional intervention with respect to DCTs.
- There are also potential costs that may arise from unintended or collateral consequences of proposed remedies, for example, where they disproportionately impact smaller competitors and thereby lessen competition. It is critical that these are taken into account when considering remedies that may require the disclosure of commercially sensitive pricing information or strategy that would undermine American Express ability to compete.

Barclays

[redacted]

6 April 2022

PSR ACQUIRING MARKET REVIEW CONSULTATION

Introduction

Barclaycard Payments is a leading acquirer in the UK and Europe and is a wholly owned business ultimately falling under Barclays PLC[1]. Barclaycard Payments (hereinafter referred to as "Barclays" unless indicated otherwise) provides a range of payments services to SMEs and large corporates.

Barclays acknowledges the Final Report and welcomes the opportunity to engage with the PSR during the remedies phase. We are broadly supportive of the aims of the process to improve outcomes for merchants. We provide detailed commentary to the questions posed.

In summary our views are:

- The PSR expresses reservations about switching levels in the Final Report - [redacted] it is observed that the main reason for this perceived lack of switching can be linked to unfair terminal contracts, and specifically to very high termination fees associated with those contracts.
- We are very supportive of increased transparency as to fees, especially termination fees. We would support a complete ban on termination fees for terminal hire, although we appreciate other market participants do not have the same view. We would also be supportive of POS terminal termination fees to be made proportionate to the cost and the time on lease - and reduce over time.
- We advocate that terminals should be brought within the scope of the Payment Service Regulations and removed from the scope of the Consumer Credit Act.
- We support a pricing box, as long as it is complete, can be compared like-for-like and there are no material hidden charges. The Canadian Payments Code can serve as a model here.
- We support an annual reminder setting out the current/future pricing package and what it will cost to exit the arrangement.
- We do not think making POS terminals interoperable is a viable solution from a technical or an operational standpoint. A contractual problem with terminals has been identified and it will be best addressed on cost, timing and practicality terms, with a contractual remedy, i.e. on termination fees.

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[1] Please note that, as noted in the response to question 2 of our submission of 3 June 2019, "Barclaycard Payment Solutions" (***BPS***) was the trading name for the UK card acquiring and card acceptance division within Barclays Bank plc – which itself is a wholly owned subsidiary of Barclays plc. BPS was not a legal entity, and has, following internal re-organisation and rebranding, been succeeded in this functionality by Barclaycard Payments.

[2] [redacted]

[redacted]

- We think the DCT remedy should be a follow-on to the transparency and contractual remedies and, while we are supportive in principle, we express reservations about its commercial viability and pragmatic application to a complex B2C market with many differing products and services.

We look forward to further engagement with the PSR.

Summary Box

1. Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Barclays supports the proposed summary box remedy because it could help merchants search, compare like for like and ultimately switch to a deal that works better for their particular needs, provided that the merchant is not effectively prohibited from switching because of high termination fees under their terminal hire agreement. However, in order for a summary box to serve this purpose, Barclays strongly believes that it must be designed with certain standards in mind.

We advocate that that the summary box should:

1) include <u>all</u> charging lines for all major services in the payment acceptance package (e.g. terminal hire, DCC, fraud, gateway);
2) be complete, accurate and give an indication of when charges will apply;
3) avoid a pure focus on headline rates (as this could downplay “hidden” fees/rates);
4) include a clear statement of whether there is a minimum monthly or periodic billing amount;
5) set out the term of any POS terminal rental/hire agreement and what the termination fees will be, at each anniversary of the commencement date – to the extent these are supplied by the acquirer;
6) take learnings from a similar solution that is currently in place in Canada[3]; and
7) include a clear requirement that all fees must be clear, transparent and not misleading and that any charge that is likely to reach a certain threshold of total charges (say 5%) must be declared in the pricing box (and the annual prompt/reminder) – this principle would permit flexibility for providers to innovate with new pricing models.

The summary box should also include examples of the total cost a merchant would pay to accept the most commonly accepted transactions by SMEs (e.g. £20 contactless debit card transaction), together with an overview of additional charges, e.g. chargeback fees, joining fees, and international transaction fees. This would help bring the summary box

[3] https://www.canada.ca/en/financial-consumer-agency/services/industry/commissioner-guidance/guidance-16.html
https://www.canada.ca/en/financial-consumer-agency/services/industry/laws-regulations/credit-debit-code-conduct.html
https://www.canada.ca/en/financial-consumer-agency/services/industry/commissioner-guidance/guidance-10.html#issue2

to life for merchants and also reduce the risk of misleading merchants with any hidden charges.

2. **Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?**

Bespoke merchant summary boxes (as to rates) could help support cost comparisons between different providers – but only insofar as they are comparable *between* providers and are specific to the individual merchant.

A problematic issue with pure pricing grids is that they do not consider non-price factors such as the service proposition/offer – but these are factors that may well play an important role when a merchant is making a switching decision.

We are not supportive of generic summary boxes. There are too many complex variables in card payment acceptance and in retailer size, complexity, sector and card present/card not present mix.

As noted in the response to question 1 above, Barclays feels that the focus should be on transparency, rather than seeking to establish a mandatory and uniform pricing construct across the industry – and there is certainly a role for non-price factors (e.g. will the client be served entirely digitally or will they have a managed service with a point of contact, will they have an analytics dashboard, will they have access to industry experts). An overly prescriptive model would be enormously challenging and would require extensive intervention by the PSR – that must also take into account the roles payment schemes play when it comes to establishing very complex pricing structures in which acquirers have no role at all. We consider that simplifying scheme pricing structures would enable merchant acquirer rates to be simplified and more relatable to the cost inputs.

3. **Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.**

Acquiring pricing is inherently complex which would result in complexities in providing a valuable comparison. To allow for views to be provided on the information that should be included in a summary box there are presentation choices to be made, such as whether the summary box provides a summary of a typical transaction providing for a charge to be provided based on a value on a specific card. An alternative approach could be for the summary box to present an assumed transaction profile giving the overall monthly costs.

Both potential presentations have complexities, for example utilising a typical transaction type will not provide merchants with the overall costs which would include minimum billing or other transaction independent charges that making it difficult for merchants to complete a valuable comparison. A summary box based on transaction profile would account for overall monthly costs making it easier to compare packages from providers however it could be misleading for merchants as their actual transactions types may not align with their proposed transactions profile. In addition, the transaction types that are not included in the box may in absolute terms form a minority of the total number of payment events, but represent a relatively bigger portion of the total costs a merchant may have to pay due to their relative high cost (as a result of much higher interchange fees).

Producing tailored all in costs for each merchant based on their profile would require significant work and technology development – we think a transaction fee based structure would enable merchants to compare like for like and would be significantly easier to implement (this is the model chosen in Canada).

The Canadian model requires all charges to be shown, but recognises not every merchant nor the acquirer / ISO is the same. The Canadian Code requires clear, simple and non-misleading language.

[redacted]

4. **Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

Summary boxes could help a range of merchants but become increasingly complex, the more complex the merchant requirement. The use of summary boxes should be focussed on where they are most useful, relevant and beneficial, especially where a client has less "in person" one to one contact with their provider and/or more "bespoke" requirements. In our view, there is insufficient evidence to apply SME/consumer type remedies to large B2B enterprises. In the segment above a certain breakpoint - and Barclays suggests that £6.5m annual turnover is a natural threshold - we think the complexity and variety of merchants is such that the value add of a summary box remedy may have diminishing returns.

We also take the view that the headline acquiring rate is more important to smaller merchants than larger merchants. Larger merchants will focus on non-acquiring price factors, such as the functionality of the terminal or the ecomm gateway or what integrations come with the package (such as free accounting software) or industry vertical capability (e.g. in the hospitality industry).

We therefore conclude that the merchant segment best served by a summary box remedy will be the micro merchant segment and the small merchant segment, with a turnover of up to £6.5m. This on the assumption that these merchants can actually switch – and are not tied into onerous POS terminal contracts that could have high termination fees.

Digital Comparison Tools (DCTs)

5. **Please provide any comments you have on the potential for Digital Comparison Tools (DCTs) to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.**

DCTs are highly effective in stimulating competition and switching between providers in industries with simplistic price structures, in a B2C environment. Car insurance, mortgages or unsecured loans each have relatively simple offerings for a single product, with limited variables – a mortgage has a headline interest rate/term, the APR, the product fee if any, the term of the loan, the early termination charges to break a fixed rate deal and whether legal and valuation fees are free or not.

The card acquiring industry differs to these consumer markets in three ways:

1) There are multiple products that sit alongside the core acquiring, such as DCC, gateway, POS terminals, omni-channel solutions and fraud management – and the functionality and price of those products is as important to many merchants than the core acquiring price.
2) Interchange for non-regulated card types (commercial, non-UK domestic or non-EEA consumer) and scheme fees remain highly complex and varied. This falls within the purview of the payment schemes, outside the control of acquirers. Translating such complexities into a simplistic pricing package can be difficult to achieve, unless the remedies dictate pricing structures and reflect the important role of the payment schemes.
3) The card acquiring market does not have the same scale as consumer-focused markets do.

Given the complexity inherent in the pricing construct for acquiring services, the need for any DCT to reflect non-price factors and the fact that acquiring is not a mass market B2C product, we are not yet convinced that standard DCT providers would be willing to include acquiring within their offering. DCT providers would need to invest significantly and if this remedy is implemented, we think the PSR and the DCT need to lead this, rather than leave it to the acquiring industry. We think the fee commission arrangements, which would ultimately pay for this development, need to be carefully constructed such that merchants are not steered towards providers who pay the most to the DCTs – merchants should be choosing their provider on price and non-price factors. We think the PSR should have oversight of the design, build, implementation and ongoing operation of the DCT.

In conclusion, DCTs may have a place in the market, but will be more successful at the micro/small merchant/less complex segment. We also consider this remedy to be a follow on consideration which is entirely dependent on the success of the summary box remedy – and its design, implementation and roll-out will likely need considerable time

6. What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

The pricing construct behind acquiring is complex, which is largely down to the fact that the interchange and scheme fees charged by the card schemes on any particular transaction vary significantly according to a wide range of variables. The nature of the transactions accepted by a particular merchant will therefore be vital in determining the charges that merchant will pay to their acquirer. For example, the interchange applicable to the transactions accepted by a merchant who operates in the travel sector (which is characterised by a higher than average number of commercial cards presented by non-UK cardholders) will vary significantly to a merchant operating in the fast food industry.

Acquirers can only present accurate pricing if all variables relating to the card acceptance behaviour of the merchant are known, therefore the pricing output is only as accurate as the input provided by merchants.

The relationship is wholly unique between the acquirer and their chosen merchant making it very difficult to achieve comparability by making that unique offer 'like for like'.

Acquirers have differing pricing models and it could prove a substantial requirement to amend and align all pricing models – for a DCT to work, and for a meaningful comparison to be made by the merchant, the pricing models across all acquirers would need to be comparable with each other. Homogenising pricing models could substantially restrict acquirers from producing innovative pricing models.

We think a CBA for this proposal is critical.

7. What information do you think should be provided to merchants by DCTs?

Merchants' needs will differ based on the service type, sector, and market conditions at that point in time when the service agreement is entered into. We would suggest instead that a preferred exercise is for the industry to work collaboratively with the PSR, as part of an exploratory exercise, to collectively work towards a taxonomy that tries to apply some defined terms to ensure a correct comparison can be made. However, this is a hugely complex undertaking given what pricing points and non-pricing points can be agreed to and by which a benchmark measure could be relied upon.

We think the single biggest problem that hampers switching is unfair terminal contract practices. The PSR identified this finding in its Final Report. Put another way, if a merchant is tied into a long-term agreement with a PSP that imposes costly termination fees, that merchant will find little benefit from a DCT.

Given that the PSR has identified that terminal contracts can hamper switching (which we completely agree with), we think a mandatory element of any DCT must include a clear indication of the term of the rental agreement and what termination fees will apply over the term – acquirers could do this, but only to the extent that they supply the terminals. Mortgage lenders provide this information to DCTs either upfront or via the "click for more detail" button (see for example the CompareTheMarket mortgage DCT).

8. Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

DCTs may help stimulate the market in some sectors but it may stifle commercial and product innovation as pricing proposition will have to be the same and value adding services will be difficult to compare. What is more, as explained in our response to question 6 above, a DCT will only be helpful for those merchants able to switch – lengthy fixed terms and high termination fees in terminal hire contracts will curb the effectiveness of any DCT.

9. Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Merchant comfort level with a DCT is likely to be dependent on whether the merchant feels that the DCT could get them a better deal. Barclays feels that merchant engagement by the PSR would be constructive in helping understand their views on the sharing of transaction data with DCTs.

10. **Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.**

    The question highlights the need for merchant engagement by the PSR, to a far greater extent than the very limited activity that occurred during the market study phase, especially in the £10-£50m turnover segment.

11. **Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

    The merchants who would gain most from DCTs are likely to be the same merchants who will derive most benefit from the summary box. Please see our response to question 4, in which we explain which merchants are most likely to benefit from the summary box.
    Considered research is needed before embarking on such an initiative. As noted above, our preliminary view is that DCTs suit B2C markets. Only the simple/small end of the acquiring market represents anything close to a B2C proposition.

    Triggers

12. **Do you agree that provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?**

    In principle we are supportive of providing merchants with a reminder when their contract is due to expire. We think this reminder should be accompanied by the pricing for the next period of the contract and it should set out what terminal termination fees apply – to the extent that this is known to the acquirer (a merchant may well have concluded a separate terminal hire agreement with a third party – and the acquirer would neither have visibility nor control of the terms, including termination provisions, of that agreement).

13. **Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?**

    Yes, if by fixed-term contracts the PSR means without active renewal they would automatically close; this could be disastrous for businesses. Acquiring customers can terminate their acquiring facilities with a notice period of no more than one month (under the PSRs). But, as the PSR has identified in its findings, it is the terminal contract that limits the exercise of that right.

14. **What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.**

A potential suggestion [redacted] and there is no fixed term in which to trigger a message to merchants. Sending merchants a trigger/reminder each month may not have the desired effect [redacted] an annual reminder is more likely to have the desired outcome.

15. Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

- **Information on the purpose of the communication**
- **How much the merchant paid for their card-acquiring services in the previous 12 months**
- **The amount that the merchant would save by switching to the lowest-priced option**
- **Information on non-price benefits of switching**
- **Information on POS terminal switching**
- **Information on how switching works, and what merchants should do if they wish to switch**
- **A call to action.**

Most of these suggestions seem workable and proportionate, although bullet point three has some issues.

Whilst this remedy sounds prima facie appealing, one must consider the scale of the investment to deliver it. This has the potential to become a very burdensome exercise producing tailored offers for every merchant based on their unique profile and transaction history – as we have explained the acquiring industry has many more variables than will be seen elsewhere, e.g. the domestic consumer energy market. We would support providing alternative potentially cheaper packages, but have reservations on the costs and benefits of providing multiple offers linked to real transaction data, which could ultimately reduce investment in new products and services and platform stability, functionality and enhancements.

We think transparency on termination fees for terminals – coupled with a measure that would gradually reduce those fees - is critical, as noted elsewhere in this response.

16. What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

Communication methods with merchants is determined by the merchant. It is therefore difficult to provide evidence to support one method over another as it is merchant choice.

17. Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

The merchants most likely to benefit from trigger messages are those who:

1) would also be most likely to derive benefit from a summary box and DCTs. Please see our responses to questions 4 and 11, in which we explain which merchants are most likely to benefit from these; and
2) are not subject to punitive termination fees under any terminal hire arrangement. A prompt is not likely to lead to trigger switching unless a merchant is actually able to switch.

18. To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

There are many attributes/commercial relationships that would need to align, the vast majority of which falls outside the regulatory perimeter of the PSR, such as software providers, hardware manufacturers and leasing companies.

In essence, each acquirer has to certify that any terminal used to submit card transaction to it meets certain technical standards – this in part to preserve the integrity of the payment system as a whole. For a terminal interoperability measure to work, and for an acquirer to accept terminals without carrying out this certification exercise, a considerable amount of work would be required, at industry level, to align those standards.

Similarly, the 'spread' of terminal software integration, hardware designs and range of product specifications (with variance of functionality and features) of which large segments of the market are proprietarily/owner designed makes the notion of interoperability unfeasible.

19. Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

No – we think this will be practically very difficult to achieve, for the following reasons:

1) <u>Difference with utility markets</u>: The acquiring market is very different from other utility markets (e.g. energy and telephony). Acquirers do not have the same degree of control or influence as utility providers over third party hardware/software manufacturers/providers. There is more variation in the services provided than for a utility. Moreover, even for utilities such as broadband the suppliers all provide their own routers that are not interoperable.

2) <u>Harmonisation of standards</u>: The acquiring market does not have a uniform set of agreed standards for terminals. Standards are also constantly evolving. Interoperability would require a large programme of standardisation that could take several years. It may also require co-operation of international bodies such as EMVCO.

3) <u>Complexity of accreditation requirements</u>: Schemes mandate that both the hardware and the software configuration must be accredited. The range of proprietary

hardware and software available would make a programme of universal accreditation very burdensome. For example, terminal code may be the same for terminals provided by the same supplier but different applications, 3rd party integrations, value added services and functionality may all result in different software configurations that require accreditation.

4) Difference in terminal capability. Basic terminals with limited memory and CPU could not be upgraded to software that enables additional functionality or services provided by some acquirers. Some terminals are currently supplier specific (e.g. Square, Zettle, Stripe). POS systems – new offerings to market are an integrated till and payment device – making this type of terminal interoperable could be very complex.

5) Software is rarely generic and will not be supported by all acquirers. All providers provide terminals with bespoke software based on the functionality and features the terminal is designed to provide. New models often require apps to drive payment functionality – not all acquirers would support the latest hardware/software or have access to the app.

6) Potential race to the bottom. There is a risk that this remedy would create a potential race to the bottom on functionality, quality and security – outdated/end-of-life terminals could increase risk to the payment ecosystem.

7) Merchant confusion:
    a. Merchants might have a technical issue with a terminal but may not know whether it is the terminal, its software, its connection to the acquirer/ its systems that are the root cause. Solving incidents and customer servicing will become more complex.

    b. Acquirers will need to "inject" their software into the terminal, but given that terminals cannot receive push messages the merchant will have to download all the new software and configure the device (which may not be simple).

8) Future proofing. The market is dynamic and terminals are constantly evolving for new technology and payment acceptance types. The remedy may be "out of date" by the time it is implemented.

9) Potential impact on innovation in the terminals market. What impact will interoperability have on innovation in the terminals market? What does interoperability do to the dynamic between hardware/software suppliers and accreditation/standards organisations? There are many potential consequences that the PSR would need to consult on with the terminals market.

More generally, this would be a disproportionate requirement for acquirers, particularly when the barriers to switching terminals, identified by the PSR, do not originate with the acquirers. There are significant practical issues to resolve in making terminals interoperable which will delay implementation and impose significant cost on the industry.

As noted, a more proportionate and effective remedy would be action on POS terminal termination fees - the concern identified by the PSR is a contractual issue (with merchants being locked into terminal contracts by excessive contractual lengths or termination fees). A contractual remedy would be more targeted, effective and proportionate.

A requirement that contract lengths and termination fees be transparent at the outset of the agreement and a periodic reminder be provided would be a more direct and proportionate way to resolve the concern of the PSR. As we have noted above, examples of such pricing constructs include early redemption charges for mortgages or early termination fees on mobile phone contracts.
The PSR could set an expectation that the charges must reflect the terminal cost and decline as the merchant pays off the cost of the terminal.

20. Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Yes. We think fixed term contracts that cannot be terminated early without punitive/disproportionate termination fees should be banned. As noted before we think this is the biggest barrier to switching in the SME market. Termination fees for POS terminals should reduce over time during the initial term reflecting the profit and amortisation earned. We think a small return fee should be allowable to cover the costs of recovering and refreshing the kit. There should also be an allowable penalty if the customer refuses to send the terminal back. Alongside setting rules on the length of the contract, any termination fee should be linked to the remaining period of time left during any fixed term. For example, if a merchant has entered into an 18 month term for a terminal hire agreement, a merchant seeking to terminate during month three would anticipate paying more to do so than had they sought to terminate in month 12.

In relation to the proposal for an information trigger remedy, we think the PSR should concentrate on both issues and not pose the solution as an “either / or”. A contractual problem should be addressed with a contractual remedy, coupled with a requirement for complete transparency, both at the time of the contract and at annual renewal/reminder. If a merchant knows it can get a better acquiring deal and the latest new terminal from another provider and knows before searching what the termination fee is, then it is more likely that the merchant will switch. We would suggest that merchants who do not know what the termination fee would be until they actually serve notice to terminate, are more likely not to switch.

Terminals are an integral part of the payments service for many customers. Termination fees under terminal hire contracts curb the ability for eligible merchants to exercise their right under the PSRs to terminate their acquiring contract at any time on no more than 30 days’ notice. Given the importance of terminal contracts to the regulated payments services market and the current tension that exists between the regulatory framework of terminal hire and acquiring, we think it is time to radically reconsider the regulation of terminals and remove terminal contracts from the exemption of the definition of payments services in the PSRs (see Schedule 1, part 2, PSRs). Moreover, the Consumer Credit Act 1974 often applies to hiring agreements, with little or no real benefit to the merchant and is not fit for purpose. Compliance with this Act, for relatively small rental payments per month, is disproportionately costly. Those compliance costs would be better targeted and give better outcomes for merchants if they were directed to complying with the PSRs, which should be amended to include rules on transparency and termination fee practices. If the PSR contemplates an enhanced independent leasing market, then those providers must also be subject to any requirements, as they will not be the agent of the acquirer - and the acquirer will accordingly have no control over them. Therefore the PSR should have control over them, on a statutory footing.

21. What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

The acceptance market and range of acceptance types are changing so radically and fundamentally evolving. This means that many businesses may come to rely increasingly on their acquirer relationship to help them navigate through that complexity regardless of price/termination fee being the single determining factor for why a merchant may be encouraged to move or being perceived as a barrier for them to do so.

Merchants may be moving to more app/gateway software solutions rather than hardware, especially for smaller merchants who could use their smart phone device as the payment acceptance hardware with the right software. Payment could then be made with a mobile device, by the cardholder, and accepted on a mobile device, by the merchant.

This development underlines the importance of ensuring that any remedy the PSR contemplates is “future proof” and takes account of these developments.

22. Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

Yes – terminal pricing. By requiring interoperability providers will need to depreciate the terminals quicker, which may lead to a higher rental/lease charge from the provider or upfront charges. Any additional costs borne by terminal hire providers as a result of the increased work required to deliver terminal interoperability may also be passed on to merchants.

23. Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

We think measuring consumer outcomes will be extremely challenging in practice, particularly in the current inflationary environment.
Measuring merchant outcomes is more practicable, but non MSC factors must be taken into account, such as scheme fees and increasing costs to acquirers. We would welcome the

opportunity to have an open discussion with the PSR on the most effective approach to monitor merchant outcomes. While Barclays supports measures that would give merchants the tools and ability to switch, if they wish to do so, the success of the remedy should not necessarily depend on increases in switching alone. [redacted]

Cost Benefit Analysis

24. Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

Barclays agrees that the guiding principle (that benefits need to outweigh costs) makes sense and supports the PSR in taking this approach. We assume that the draft CBA notice will provide further detail on the exact operation of the review mechanism, including on the process to be followed to measure the benefit of each remedy, and precisely what input will be required from stakeholders. By way of high level initial observations:

1) The Annex that describes the CBA does not provide detail precisely what constitutes a successful remedy, or how exactly its benefits will be measured – this should be made clear in the draft CBA notice. If "success" means increased switching, [redacted] which will make it difficult to isolate the true impact of any remedy that is aimed at switching. As noted, if switching rates remain unchanged, then this does not necessarily mean that the remedy is unsuccessful – the remedy should be aimed at *enabling* merchants to switch more easily, if they wish to do so. But this does not mean that merchants also *will* switch; they may well be happy with their current deal.

2) Some of the remedies that the PSR is considering (and particularly those around the interoperability of terminals, and the development of the DCT) could have a significant, long-term and ongoing cost impact– [redacted] We emphasise that it is not the case that the cost of implementing a remedy will be one-off, but are likely to have significant ongoing financial impact. The CBA should take account of the ongoing nature of some of these costs. For that reason we believe it would be appropriate to include a sunset clause in any remedy.

3) In addition, it will be important that the CBA is carried out at the right time – when the detail of the proposed remedies are in final form.

25. What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

[redacted]

26. Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

Giving an accurate estimate here is challenging; some measures could be implemented relatively quickly (e.g. the trigger messaging) but others may need a much longer period before they can be implemented and the benefit could be measurable – this could be the case for any remedy on the interoperability of POS terminals, and the DCT remedy that the PSR is considering. The complexity of the issues that those remedies would need to address (plus the parties that would need to be involved in their development (which should, we stress, include the payment schemes) makes it difficult to give a reasonable estimate here.

British Retail Consortium (BRC)

Card Acquiring Market Review proposed remedies consultation – BRC response

About the BRC

The BRC's purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

Retail is an exciting, dynamic and diverse industry which is going through a period of profound change. Technology is transforming how people shop; costs are increasing; and growth in consumer spending is slow.

The BRC is committed to ensuring the industry thrives through this period of transformation. We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit. Our membership comprises over 5,000 businesses delivering £180bn of retail sales and employing over one and half million employees.

BRC response

1. The BRC welcomes this consultation. The card acquiring market has long been in need of greater transparency and responsiveness to merchants. The BRC was pleased to see the Payment Systems Regulator (PSR) launch its review into the card-acquiring market and are pleased to respond to this consultation on its proposed remedies.

2. The remedies put forward in the consultation all seem reasonable and appropriate responses to the issue of an opaque market that does not work well for merchants. The BRC supports their introduction.

3. However, the BRC believes that the four remedies in themselves are not a sufficient response to the problem. We would have liked to have seen a greater focus by the PSR on the perceived issue of card-acquiring schemes changing their invoicing and costs in what some believe to be circumvention of the IFR legislation.

4. The BRC would also have liked to see, as part of the PSR's review, a greater emphasis on working with merchants, as well as schemes and acquirers, to gather facts and data to inform its investigation of all the issues. There is a feeling amongst some retailers that the evidence gathering was not comprehensive enough, and that had it been so, the proposed remedies may have been different.

5. We also feel that the PSR should not delay in implementing the proposed remedies, in particular the Digital Comparison remedy. There is a concern amongst some retailers that this welcome response may suffer from an unnecessarily long implementation period from schemes. We do not believe that this is necessary and would welcome an approach from the

PSR whereby it publishes a deadline reasonably soon for any further consultation on implementation and, more importantly, introduction of this measure.

6. The PSR must also ensure that this review, and any implementation of the proposed remedies, does not signal the end of its interest in this issue. In particular, it must remain responsive to the views of merchants if they consider that the remedies are not achieving the desired outcome, and be prepared to take further action as necessary.

7. In conclusion, while the BRC supports the four remedies proposed, we would like to see them implemented as quickly as possible, and for the PSR to keep the market under review, speak further with merchants as necessary, and to be prepared to make further interventions in the market where and when appropriate.

Cashflows

Dear PSR

Further to your recent Consultation Paper (Market review into card acquiring services) and specifically with regards to Industry Questions raised by it – I share below perspectives on a number (not all) of these.

I would begin by saying we align with the PSR's over-arching objective of ensuring the payments sector works well for merchants and end consumers. Transparency and confidence across the end to end payment eco-system are key to such and is the spirit underlying the responses below to the questions you have posed.

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

We believe that the summary boxes as proposed by PSR are unlikely to achieve the desired objective because:

- Acquirer pricing is a relatively small component of the overall costs an SME would pay for payment services
- Other parties (gateways, ISOs, etc..) add costs and may not be in the sphere of influence for PSR
- Non-regulated parties can use the summary box tools to market that they are not on price comparison websites and potentially undercut any provider using summary boxes on DCTs – very similar to the likes of Churchill in the Insurance market.

NOTE: scheme costs have been a requirement to be transparent and published for many years but this hasn't addressed the issue at hand (example:) https://www.cashflows.com/scheme-fees)

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

To some extent this already happens with pricing plan policies the acquirer issues for each merchant. Today such are not seen as a basis for merchant engagement. Instead, merchant engagement is often driven by the merchant and acquirer relationships, platform reliability, service level experiences, tailored services and general market share and sentiment.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

Merchant Services are incomparable to Utility and Insurance markets where relationships between end customer and provider are one dimensional and almost exclusively driven by premium or contract cost. Payment provider services will always be to a business and will adapt in line with merchant business growth and needs whilst attributes like platform availability, funds settlement speed, call centre support, chargeback support etc.. will factor.

Summary boxes could look like the service Cashflows built with DataM, Visa and Payments Alliance (see attached) but would require further merchant level research to establish current provider decision drivers and priorities

Without such further qualification summary boxes risk providing generic information and driving limited comparison value.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Not answered

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

Providers within the payment industry involve multiple parties - not solely acquirers. Equally the way in which merchants go to market spans multiple channels – covering POS, Soft Pos, EPOS, MPOS and so complicates the payment landscape drastically making it an unsuitable base for DCTs to operate.

Merchant categories, industry, payment mix, chargeback and refund levels and geographies introduce further complexities meaning that no one-size-fits-all

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

See answers to questions 1 and question 5

QUESTION 7: What information do you think should be provided to merchants by DCTs?

Jargon free information is important – we willingly recognise that not everyone is a payment expert.

Basic "ballpark" figures could be provided in order to give indicative expectations from standardised inputs and / or industry averages. Other factors will contribute to eventual costs however such as the nature of the customers business, processing mix, seasonality and overarching risk profile (contingent risk for which the acquirer is liable)

Given the above "ballpark" figures are likely to be the same between acquirers and so may undermine the PSR's objective here.

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

For DCT's to succeed the basis of comparison across the market needs to be aligned with common terminology and a mandate for all providers to participate.

SME customers particularly can be extremely volatile with regards processing trends and rarely can predict go forward needs with accuracy. For such reason, any point of comparison would need to be retrospective based on what transactions and their mix were processed in the preceding 12 months.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Such will depend on the data being requested and whether merchants feel incentivised to claim higher volumes / more simplified transaction profiles in the hopes such will secure preferential pricing that may not be their eventual reality.

Unintended risks may be created from fraudsters and scammers posing as a DCT whilst GDPR issues may complicate provision / sharing of data.

As such DCTs would need to be regulated and possibly hosted by the PSR to ensure they were "not for profit" and operated independently / without commercial bias

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

Yes, but only If regulated and there is only one centralised DCT website/tool

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

SMEs are most likely to benefit given Corporate sized merchant change cycles are slower, needs are far more complex and overall understanding of the payment system and related services is generally far greater.

Merchants operating in only one space currently (i.e. solely online or solely POS) and so looking for education of the key considerations / points of differentiation may also benefit, as would those looking to move from cash only environments

QUESTION 12: Do you agree that provision of information by providers of card acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

Customers risk missing key messaging due to multi-channel information overload. There is also a risk that such messaging is misunderstood and that the merchant believes services are coming to end and so panics.

Merchants may also opt out of receiving marketing information from us – as such clarification under GDPR classification of such communications would be needed.

QUESTION 13: Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?

Yes, there should be focus on self-servicing and self-informing as opposed to enforcing fixed term contracts

There could also be an interpretation that the only time a merchant can consider changing service provider is at the annual renewal – when in fact MSA's afford an array of merchant termination rights often with 90 days or less notice.

QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

Not answered

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful

Not answered

QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

Not answered

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Not answered

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

Different Acquirers have different capabilities when it comes to supporting different payment types and different merchants will have a wide array of set-ups based on the nature, complexity and preferences of a business and so means an array of technology permutations.

Card schemes themselves mandate certification of terminals to allow new schemes and adjustment to existing schemes to be made to different terminal types. As such, portability begins with evolving the Card Schemes Certification regime that currently restricts interoperability between acquirers but arguably protects the integrity and security of the payment ecosystem.

For features of concern to be addressed both the card schemes themselves together with hardware providers will need to support evolution.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

See answer to Q18

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

POS terminal leases exist to lower barriers to entry by spreading equipment costs over a longer period. Leased POS equipment must still be paid for in full by the Acquirer / PSP. Given the pace of technology evolution is similar in nature to that of mobile phones and can mean that equipment returned early is of limited value and cannot easily be re-purposed.

The commercial reality of terminal costs and recovery models limits reform opportunity. If lease terms were shortened or limited the condensing of these contracts will force monthly costs to rise and may impact accessibility.

Partner operating models exist with many acquirers meaning a 3rd party partner introduces the customer and provides the payment terminal whilst the Acquirer processes the transaction. These will be separate contracts with separate unrelated legal entities meaning the Acquirer will have no influence over the operation of terminal leases. For this reason, any reform would need to extend to include all operators in the payment space – not solely acquirers.

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

Pandemic impact has migrated many businesses online meaning reductions in terminal estates or a removal of their need entirely in some cases. Innovation has also seen the entry of many lower cost providers such as STRIPE / Zettle providing dongles that plug into mobile phones enabling basic terminal functionality and again provides operators from Micro to SME with lower cost options.

The likes of Apple are continuing to evolve their payment capabilities through the rolling evolution of products like the iPhone. It is increasingly likely that such technology will reduce reliance upon physical terminals in the medium term in favour of incorporating such capabilities into an operators existing mobile phone estate.

Alternative payment methods (such as Allipay where a QR codes can be used to pay) can move a considerable payer base away from card schemes as APMs often don't require a payment terminal. Layer in Open Banking innovation and the advent of applications that enable such without the need for card payments and card scheme rails, consumer choice is expanding and so to is the complexity of payment types a merchant may need to be able to accept.

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

The establishment of commercially viable Acquirer agnostic terminal lease provider seems unrealistic – and if achieved risks creating a new monopoly that de-centralises the associated costs and moves from view of the PSR.

In any case, the operational possibility of such could only be unlocked by the Card Schemes themselves by reforming Certification programmes and in doing so the Introduction of portability risks invalidating hardware providers such as Ingenico, Castles etc and so could inadvertently curtail innovation and competitiveness.

QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics

should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

Base data used to form the assertions being made by the PSR around features of concern could be shared with all respondents to aid deeper understanding and identify KPI opportunities – both at acquirer and industry level.

Any monitoring requirements established will need to be industry standards to ensure aligned calibration across the market place and would need mandate for all operators to participate.

The tracking of Merchant voluntary attrition levels at Acquirer level and / or at industry BIN level via the Payment Schemes would measure mark track migration levels, albeit is one dimensional in nature.

The PSR should also aim to focus on end to end payment system costs (including those levied by the card schemes) given Acquirer costs are just one of many a merchant will pay to process transactions.

QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market. QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas. QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

C BA proposal appears to focus on terminal lease costs restricting portability. Broadening consideration to include omnichannel, clearly understanding the primary drivers of the current marketplace, the overall operating framework governed by the Payment Schemes and the existing compliance infrastructure, could all drive far more insightful outcomes.

The drivers of Acquirer risk appetite should also be considered in the context of target outcomes. Factors contributing to that include merchant financial standing, nature of transactions processed, accumulating associated contingent risk (and run off periods) and rate of return on an overall account.

Where acquirer income includes terminal rental, the cessation or portability of that may narrow risk appetite, see facilities withdrawn, terms adjusted or not offered in the first place and / or see costs migrate to other services. Ultimately merchant choice could suffer.

I hope the above are considered helpful and I welcome the chance to expand upon them as appropriate.

[redacted]

Cashflows

cashflows.com

CPC1, Capital Park, Cambridge, CB21 5XE, UK

[redacted]

Elavon

ELAVON RESPONSE TO THE PSR CONSULTATION ON REMEDIES

From: Elavon Financial Services

To: Card-acquiring market review team, Payment Systems Regulator, 12 Endeavour Square London E20 1JN (cards@psr.org.uk)
Date: 06/04/2022

Re: *Elavon response to the Payment Services Regulator market review into card-acquiring services consultation on remedies*

Contents

Key Points – Overview

Elavon is committed to providing our customers a positive experience and good outcomes throughout all stages of our relationship with them.

We welcome the opportunity to provide responses to this remedies consultation and our thoughts on the four potential remedies developed by the PSR to address the issues of concern it identified in its review of the card-acquiring market.

We greatly appreciate the continued and open engagement from the PSR throughout this process, from scoping of the review to the proposed remedies set out in the interim report and to this consultation on remedies.

As a preliminary point, we wish to clarify that it is our understanding that the responses we provide in this document are part of an initial and exploratory stage of activity undertaken by the PSR. We understand that consideration of the delivery of any proposed remedies is a separate exercise to this consultation on remedies and will require further analysis and industry input.

We also understand that the responses we provide in this document are separate from a consideration of any future governance, enforcement and standardisation of the remedies which will also require further consultation between the PSR and the card-acquiring industry.

Summary Box Information

Key Points

Elavon is supportive of the introduction of bespoke summary boxes being provided to merchants which may assist them to consider, or switch to, another card-acquiring service provider ("acquirer"). However, we believe further consideration and consultation is required between the PSR and industry to agree the content and delivery of these summary boxes.

In particular, we believe it is important that the information in the summary boxes is standardised across acquirers; focused on the price elements and performance metrics of basic card-acquiring services; and informed by the particular business operations of the merchant viewing the summary box. We detail these considerations in our responses, below.

Questions for consideration (1 – 4)

1. **Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?**

   In principle, we do; summary information boxes could make comparison between acquirers easier for merchants.

   However, we believe the effectiveness of summary boxes is dependent on achieving industry agreement of the information (i.e., price elements and performance metrics) that they should include and the terminology they use to describe the card-acquiring services they summarise.

   To be an effective means of comparison, it is critical that merchants can use summary boxes to compare 'like with like'.

2. **Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers or provider websites would both be helpful to improve merchant engagement?**

We believe that bespoke summary boxes offer greater potential to help merchants understand their options and switch if they want to, than generic summary boxes.

As we stated in our response to the PSR's interim report on its market review, the variable cost base faced by acquirers, combined with the pricing of chargeback and credit risk in acquirers' margins means that it is inherently difficult to develop a 'one size fits all' approach to the publication of pricing and rates in a way that will ensure competitive pricing for merchants and the prudent management of costs and risks by acquirers. Given market-based variability and complexity, we do not believe generic summary boxes would effectively permit merchants to make meaningful comparisons between acquirers' service offerings.

However, depending on how they are implemented (see our response to question 3 below), we believe that bespoke summary boxes which contain tailored, merchant-specific information could be genuinely helpful in assisting merchants to make meaningful comparisons between acquirers.

3. **Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.**

Provision of summary boxes in a bespoke form should enable merchants to quickly and easily understand key information about their card-acquiring services. However, to make information meaningful to a merchant – either a merchant we currently service or a prospective merchant we do not service – we believe the information ought to be based on that merchant's particular circumstances.

We envisage a process of engagement with the merchant where the summary information box would contain a 'quote' for the following year informed by the merchant's own operations in the previous year. To allow us to generate an accurate quote, we would request at a bare minimum the following information from a merchant:

- Its transaction volume for the previous year;
- The industry in which it operates, i.e., its Merchant Category Code ('MCC'); and
- Confirmation whether it operates or intends to operate a POS terminal(s) and whether it operates or intends to operate in an online environment. This will inform whether terminal fees are due in the case of POS terminals, or whether gateway fees are due in the case of operations in an online environment.[1]

We envisage this information would allow us to quote the merchant for the following year in relation to the costs of the basic elements of card-acquiring services (e.g., fixed fees; prices per transaction; MSC rates; and terminal and/or gateway fees).

[1] We note that the remedies consultation does not mention 'gateways' explicitly. In our response to the PSR's interim report on its market review we noted that card-acquiring is only one of many payment options in the context of the continued growth and importance of payment facilitators and payment gateways. To reflect this market reality, we believe that any summary box, trigger mechanism and DCT should consider card-not-present transactions as well as transactions carried out at a POS terminal.

However, as we indicated in our response to the PSR's interim report on its market review, we believe that merchants' decisions to switch acquirers are not solely driven by the price of the service they receive but also by its quality. For example, we would see little benefit for a merchant receiving a lower price in their MSC if it was accompanied by, for example, higher fraud rates or higher levels of chargebacks.

To ensure that comparability of acquirers by merchants is based on both price and quality of service considerations, we believe the summary box should illustrate key acquirer performance metrics (e.g., fraud rates; level of chargeback and defence rates; funding and settlement timelines; acquirer systems' 'uptime'; provision of engineer installation services; provision of in-person training; and terminal hardware exchange and replacement timelines).

To confirm, we are open to working with the PSR on agreeing specific pricing and performance parameters through further consultation and engagement.

4. **Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

We believe this is largely dependent on the model of summary boxes that the PSR ultimately decides to implement. However, as we indicated in our response to the PSR's interim report on its market review, acquirers struggle to offer simplified, or standardised schedules of pricing in light of the inherently complex cost base that they face.

This is particularly true of merchants with larger annual turnovers (upwards of £200,000). Furthermore, card-acquiring pricing models are largely driven by and reflective of market conditions, with many non-pricing elements and 'value-added services' that go beyond core 'acquiring' but which are still of benefit to merchants.

Given the complexity associated with pricing for larger merchants and that arises from the inclusion of value-added services to a acquirers' service offerings, we assume that summary boxes will be more relevant and more useful to smaller merchants with simple payment infrastructures and to those who do not avail of multiple value-added services.

DCTs

Key Points

We support the introduction of a DCT for the card-acquiring market, although we recognise that DCTs are not currently well embedded in the market. For this reason, we are encouraged that the PSR intends to undertake a feasibility study before deciding on a DCT-related remedy.

We believe that the success of any DCT depends on two key factors: the model of DCT chosen to be implemented by the PSR as well as the confidence merchants have in using the DCT. We detail these considerations our responses, below.

Questions for consideration (5 – 11)

5. **Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.**

   We have read the CMA's '*Digital comparison tools market study*' and note the CMA's conclusions that, from a consumer-perspective at least, DCTs generally make it "easier for people to shop around". However, we agree with the PSR that DCTs are not well established in the card-acquiring market and that there are some characteristics of our market which make it potentially challenging for DCTs.

   However, as a general point we note the absence of studies concerning the operation of DCTs in a non-consumer context and we therefore believe that the PSR should conduct a feasibility study to help it understand the potential role of DCTs for card-acquiring services. We would have reservations should the PSR proceed solely by relying on inferences from the CMA's and others' studies on DCTs with the card-acquiring market given the complexity and characteristics of the market and the fact that potential users of a card-acquiring DCT are not consumers.

6. **What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?**

   We agree with the PSR that the primary barriers to DCT entry on the card-acquiring market are:

   - The fact that pricing structures vary significantly between acquirers and the challenge for DCTs to obtain information concerning pricing; and
   - The need to ensure that merchants have confidence in the DCTs and the acquirers that advertise on them.

   We believe that the first barrier could be addressed by DCTs being required to display pricing information for acquirers in a consistent and standardised format. This information and the terminology used to describe it should be agreed at an industry level.

   To ensure a standardisation of experience among merchants, the DCT should also make it possible for any merchant to provide information regarding their operations to any acquirer and obtain a quote from them either in line with the sample pricing and performance parameters we detail in our response to question 3 above, or alternative parameters to be agreed between industry and the PSR.

   The second barrier we believe could addressed by involving the regulator in the oversight of the DCT itself:

   - We believe that the entities permitted to advertise on any card-acquiring market DCT should be subject to regulatory oversight and standards in respect of the information they provide to the DCT. We believe as a general principle that merchants are likely to have more trust in the information provided by organisations to a DCT if they believe that information adheres to standards set by a regulator.

   - Although we are generally supportive of the introduction of a DCT for the card-acquiring market, we have concerns about certain risks associated with DCTs and potential negative market impacts they can create, particularly in relation to pricing:

- We note that a recurrent theme in suppliers' responses to the CMA's '*Digital comparison tools market study*' is that in their view DCTs had intensified competition on price, in some cases to the detriment of levels of service. Even in a consumer context, the CMA acknowledged in its study the need to do more on quality metrics to support effective comparisons. However, particularly in a market as complex as card-acquiring in which non-price factors are critical to service quality, we are concerned about the potential for such 'hollowing out' to occur.

- Another concern we have relates to the commercial incentives of DCTs, which do not always align with good market outcomes. DCTs in the consumer market often make money by charging commissions that can place upward pressure on pricing, driving potential overpayment by consumers. Further, others surveyed in the CMA's market study indicated that they believed DCTs' presentation of information was influenced by the fact that their commissions are gained from encouraging customer switching, rather than encouraging customer loyalty. In effect, DCTs may encourage churn in the market that does not necessarily lead to better customer outcomes. Again, the CMA acknowledges that DCTs in a consumer context are not always transparent about how they make money; whether they have links to any suppliers; if they favour any suppliers and how they present results. We are concerned about the possibility of these trends manifesting in the card-acquiring market, particularly given its complexity and the importance of non-price factors on service quality.

We believe that the most effective way to avoid these risks materialising is for the PSR to have a direct involvement in the oversight of any future DCT. We do not have confidence that ensuring a commercial DCT or DCTs has the correct 'commercial incentives' through either codes of conduct or accreditation schemes would be as effective in avoiding these risks. In addition, as a general principle we believe that an independent DCT would engender more trust than a commercial DCT particularly as regards its association with providers and transparency around its funding structure.

We believe that a model the PSR could emulate are the 'comparison tools' operated by the Competition and Consumer Protection Commission ('CCPC'), an independent statutory body with a dual mandate to enforce competition and consumer protection law in Ireland.[2] The CCPC is financed through a combination of Exchequer funding and levies imposed on regulated financial service providers, in respect of specific personal finance information and education functions in the financial sector.

7. What information do you think should be provided to merchants by DCTs?

We believe that the information provided to merchants on a DCT should comprise the sample pricing and performance parameters we detail in our response to question 3 above, or alternative parameters to be agreed between industry and the PSR. We believe this information should be provided by all organisations on the DCT in a consistent and standardised format.

[2] Please see a link to the CCPC's 'comparison tools' here: https://www.ccpc.ie/consumers/money-tools/

We are cognisant of the concerns expressed by the CMA that DCTs may lead to 'hollowing out' of products because of an undue focus on price. We are encouraged that the PSR appears to recognise the CMA's suggestion for it as a sectoral regulator to work with suppliers to improve the effectiveness of quality metrics to mitigate against the risk of hollowing out.

We therefore believe it is critical that the information provided to merchants by DCTs be inclusive of both price and non-price factors. We also believe the parameters we suggest in our response to question 3 above would guard against the risk of hollowing out and permit a holistic comparison of acquirers' offerings by merchants.

8. Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

We are not experts in the operation of the DCT market *per se* and re-iterate our encouragement to the PSR to conduct a feasibility study given both the lack of studies on the operation of DCTs in non-consumer contexts and the particularities of the card-acquiring market.

However, as a general principle, we agree that for any DCT to function effectively, information must be shared by organisations with the DCT. We recommend this information comprises the sample pricing and performance parameters we detail in our response to question 3 above, or alternative parameters to be agreed between industry and the PSR.

9. Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

We understand that the CMA identified in its market study that many consumers had concerns about what DCTs might do with their personal data. We can understand that merchants may share similar concerns about sharing data with DCTs.

Our view is that oversight of the DCT by the PSR is a key measure that would increase merchant confidence in the operation of the DCT.

10. Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

We outline our views on what measures we believe could increase merchant confidence in DCTs in the card-acquiring market in our response to question 6 above. In addition, we believe that a general barrier to merchant engagement with DCTs in the card-acquiring market could result from an overall 'journey' on the DCT that is not user-friendly.

We would therefore envision engagement by merchants with the DCT in terms of a simple two-step process, through which the merchant provides defined information relating to their processing activity for the previous year, and a quote is provided to them based on this information for the following year.

We outline the information that must be provided by the merchant and the information they would receive in our response to question 3 above.

11. **Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

    We believe this is largely dependent on the model of DCT that the PSR ultimately decides to implement. However, for the reasons we outline in our response to question 4 above, we assume that DCTs will be more relevant and more useful to smaller merchants with simple payment infrastructures and to those who do not avail of multiple value-added services.

Trigger Messages

Key Points

Elavon is supportive of the introduction of a trigger message informing merchants that they may consider, or switch to, another acquirer. We believe these trigger messages should be standardised across the industry in terms of template design and timing to allow merchants to compare 'like with like'.

Questions for consideration (12 – 17)

12. **Do you agree that provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?**

    Yes. We believe that trigger messages could provide an easy and effective means to provide merchants with a recurring 'prompt' to 'shop around' for alternative acquirers.

13. **Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?**

    Yes. We agree this is the appropriate area of focus for the PSR. While we generally agree with the PSR's feature of concern that the indefinite duration of card-acquiring contracts could result in merchants not seeking out better card-acquiring solutions or offerings, we believe trigger messages rather than fixed-term contracts are the more suitable remedy.

    As we stated in our response to the PSR's interim report on its market review, although the term of card-acquiring contracts is indefinite, the contracts themselves are not restrictive and merchants are able to terminate their contracts after six months without termination fees. While Elavon does not apply termination fees to merchants who seek to exit their contract in the first six months, we are aware that other acquirers do charge these termination fees.

    Given this level of flexibility for merchants, we wish to highlight to the PSR that fixed-term contracts may create additional obstacles to customers in exiting their card-acquiring arrangements. For example, if a merchant renews their contract after the fixed term, we understand that renewal will constitute a new contractual undertaking between the merchant and their acquirer. As such, the acquirer may be entitled to re-apply a six-month period clause, during which the merchant must pay termination fees to exit the arrangement.

14. **What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.**

    We agree with the PSR that the timing of trigger messages in relation to a contract end date or ending of an initial minimum term is important to their effectiveness. It is important that a timing for the trigger messages is chosen which ensures maximum merchant engagement.

    However, Elavon has no definitive view on the appropriating timing from a merchant perspective. We encourage the PSR to engage a specialist agency or service provider to help it select an optimal time for the messages to be issued and to test and validate any underlying assumptions.

    That said, we believe that the selection of the appropriate timing should consider the needs of the card-acquiring service providers themselves. We would prefer that the trigger messages be issued to a merchant on a timescale that is particular to their contract with the acquirer rather than being issued to all merchants on a fixed calendar date. This will avoid the creation of potential 'peaks and troughs' of customer churn.

15. **Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and other you think would be helpful:**

    We agree with the PSR that the content of trigger messages is important to their effectiveness in triggering merchant engagement. We also share the PSR's assumption that personalised information is more effective and useful to merchants than more general messages.

    We think the prompt should provide the merchant with the sample pricing and performance parameters we detail in our response to question 3 above, or alternative parameters to be agreed between industry and the PSR.

16. **What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.**

    We believe the best method for delivery of a trigger message to our merchants is to present it to them when they log into their customer account portal on Elavon's website. Alternatively, we believe it could be delivered via an alternate electronic means such as e-mail or e-statement.

    We agree with the PSR that messages should be delivered using a method which will engender merchant trust and enable merchants to validate that the message is genuinely from their supplier. Elavon's primary means of communication to its merchants is through its customer account portal, by e-mail and e-statement.

17. **Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

    We believe that proper testing and analysis should be undertaken to determine this; we have not undertaken any analysis on these questions ourselves.

However, our assumption is that trigger messages will be more relevant and more useful to smaller merchants with simple payment infrastructures and to those who do not avail of multiple value-added services.

POS terminals

Key Points

We understand and agree with the feature of concern identified by the PSR that POS terminals and POS terminal contracts may prevent or discourage merchants from searching and switching between card-acquiring services contracts. We understand that the PSR is considering both a contractual remedy (reduced contract terms) and a technical remedy (POS terminal interoperability) to address this feature of concern.

As we have outlined in our response to the PSR's interim report on its market review, we believe that any remedy to address the contractual barriers (i.e., length of contracts) should consider the benefits ISOs bring to the payments market; the implications on ISOs' business models of shortened contract lengths; and the risk that the remedy may results in ISOs exiting the payments market.

We also believe that at least in the short to medium term, and for reasons relating to proprietary software and estate management; differing specifications and accreditation standards; as well as supply chain dynamics, achieving full POS terminal interoperability among all acquirers is technically unachievable.

With those considerations in mind, we propose an alternative solution to address the barriers to merchant searching and switching identified by the PSR. We refer to this solution as 'multi-acquirer interoperability', a model which is already in operation in the card-acquiring market and which we believe is commercially feasible for acquirers. In brief, this model permits interoperability among major UK acquirers and approximately 90% of transactions at the 'host level'.

Further, we believe this model of interoperability can be implemented in a manner that permits the PSR to introduce both a contractual remedy and a technical remedy. In other words, market participants would be afforded the choice between either implementing the model of multi-acquirer interoperability and maintaining their current contractual durations or being restricted to a shortened contractual duration.

Questions for consideration (18 – 26)

18. To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

We believe that it is impractical to try and address the feature of concern using option (a), for the following reasons:

- ISOs are engaged in either a single acquiring relationship or sometimes dual acquiring relationships. As a result, it would not be feasible for them to support POS terminals for all acquirers in the market.
- Due to the bespoke configuration and security features of POS terminals, acquirers would not have the ability to source and support POS terminals for all acquirers.

As outlined above, achieving full POS terminal interoperability among all acquirers is technically unachievable. As a result, we believe the feature of concern would not be addressed using option (b) or a combination of (a) and (b).

Elavon's preferred method to address the feature of concern would be a combination of:

- 'Multi-acquirer interoperability', which would permit maintenance of current contractual durations. As we state above, this model is already in operation in the card-acquiring market and we believe is commercially feasible for acquirers; and/or
- Reducing the duration of contracts to a more acceptable timeframe (e.g., 18 months).

19. Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

Interoperability at the terminal level is impractical for several reasons and has the potential to stifle innovation, as a very prescribed protocol would need to be implemented and any changes to that protocol would need to be made by all parties.

Several reasons not to support terminal interoperability and the challenges with supporting it are outlined below:

- Distribution of encryption keys for P2PE and potentially an online PIN. Each acquirer would need to maintain keys for P2PE and a mechanism to change these in the field would need to be created. This is a non-trivial problem.
- To mitigate the risk an online capture model should be operated, which leads to a more complex solution.

Elavon proposes host-based interoperability where transactions are 'switched' between several accredited acquirers at the host level. This addresses the issues above, in particular the issue associated with key management as only one set of keys is required as there is one logical end point.

To be clear, the 'multi-acquirer interoperability' proposition would work in a very similar way to how an e-commerce gateway works in today's market.

In our proposed model, a POS terminal gateway provider would be included in the end-to-end process flow. The POS terminal gateway provider would certify and approve several POS terminal manufactures to their platform. The platform would also be certified and approved with the core acquirers in the market.

In this way, the platform would then be able to act as a gateway 'switch' that could allow the various terminals that are approved to be connected and acquired by any of the core acquirers in the market. The POS terminal gateway would provide technology that encrypts and transmits the payment details from the point of entry through to the merchant's acquiring platform of choice.

Further, when a merchant decides to move their acquiring to an alternative acquirer, the POS terminal gateway provider can update the terminal and the routing to allow the merchant to commence processing with a new acquirer. This would avoid high costs associated with exchange of the physical POS terminal.

As a general note, for this model to work, acquirers must support the ongoing certification and approval of new POS terminal hardware and software. It is critical that each acquirer facilitates the certification and approval of the POS terminal gateway and its selected POS hardware within a reasonable period. Elavon recommends that if the multi-acquirer interoperability model is introduced that agreed service levels are put in place whereby each acquirer must support certifications and approvals of software solutions within an agreed timeline.

There are several other benefits of this model, including:

- Most acquirers have this capability in-house following the acquisition of payment service providers, e.g., Elavon acquired Sage Pay.
- It allows for independent organisations to 'play in the same space'.
- It is innovation friendly as the protocol between the client-side device and host can be proprietary and no interoperability is required.

Please see a diagram of the proposed solution below in Figure 1:

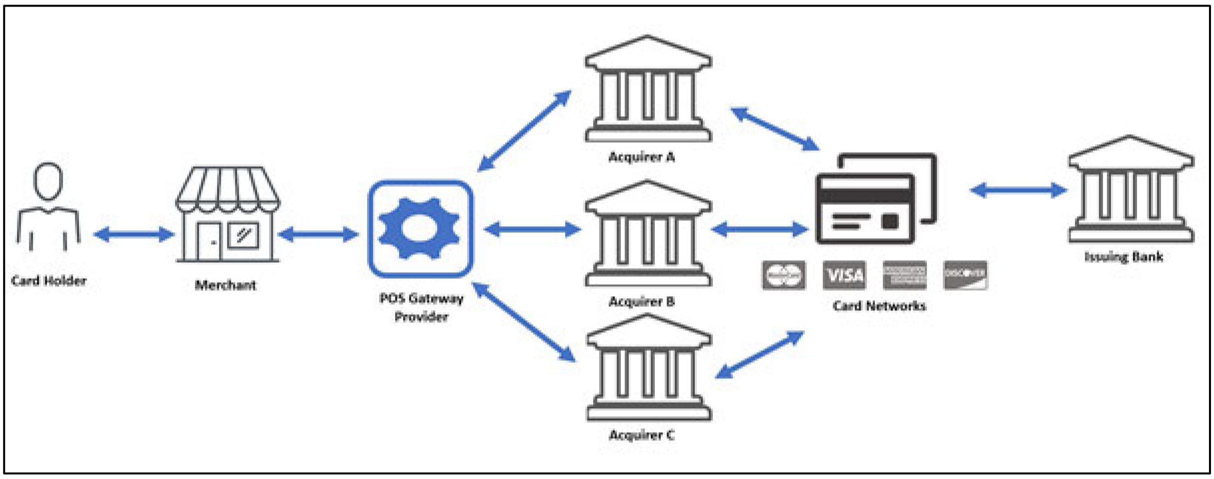

Fig. 1: Elavon's proposed model of 'multi-acquirer interoperability'

20. Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

As we note in our response to question 18 above, we believe that a dual approach to POS contracts should be implemented, with the following two options available to the market:

- Longer durations contract should be permitted under the ‘multi-acquirer interoperability’ model; and
- Shorter duration contracts may be required in circumstances where the POS terminal cannot be migrated or supported with multiple acquirers.

21. What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

The advent of both SmartPOS and SoftPOS will lead to a significant change in the market. It will see so-called ‘dumb’ PEDS and simple PDQs replaced by fully integrated solutions at the lower market segment where merchants do not have an integrated solution.

For SmartPOS, the ability to change a device will be more challenging as by definition it will perform significantly more functions which are tightly integrated into how the merchant does business. It is essential that a level of interoperability is offered for these merchants and a single acquirer solution like e.g., Clover will be a challenge. They will be tied into a long-term contract by their solution and not by means of a contract.

SoftPOS offers a slightly different challenge. If it is used as a standalone application, then implicit portability exists. However, we are seeing integrations prevailing throughout the market and it is reasonable to assume that tie-ins to accountancy packages etc. will have an impact on portability.

22. Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

The introduction of interoperability as described above rather than POS terminal portability will offer other opinions and as such have a positive impact for parties whose commercial model is predicated on longer-term leases, i.e., ISOs.

Monitoring outcomes

Key Points

We welcome the PSR’s commitment to conduct a cost benefit analysis (‘CBA’) to ensure any remedies it implements will be appropriate to address the features of concern identified in the card-acquiring market review.

We are particularly encouraged to see that the PSR recognises the potential negative impact on the business models of ISOs by increased portability or mandating a maximum POS terminal contract length. We emphasised the benefits that ISOs bring to the payments market in our response to the PSR’s interim report on its market review and provided evidence to substantiate those benefits from our Economic Advisor. As such, we believe that the PSR should consider the potential negative impacts on ISOs’ business models from its remedies and consequent potential *decrease* of competition in the market because of those impacts.

However, as a general comment and in lieu of specific responses to the questions below, we are challenged at this early point in the process to provide specific insights on how a CBA should be carried out by the PSR. We believe that although the PSR has broadly identified the remedies it is considering, the market impact of those remedies will be determined by the characteristics of the final remedies it ultimately decides to implement. We believe that assessment of the costs and benefits will only be of value once there is greater clarity on the ultimate remedies that are subject of assessment.

We will of course continue to engage with the PSR bi-laterally on any requests for information it may make of Elavon.

Questions for consideration (23 – 26)

23. Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently? We are also consulting on our approach to the CBA for remedies (see the annex). We would be grateful to receive responses from all stakeholders on these questions.

Please see our general comment, above.

24. Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

Please see our general comment, above.

25. What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

Please see our general comment, above.

26. Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

Please see our general comment, above.

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By email: cards@psr.org.uk

12 April 2022

Dear [redacted]

Re: EMA response to PSR Card-acquiring market review initial remedies consultation CP 22/1 ("Consultation")

We welcome the opportunity to provide input to the PSR Consultation on remedies regarding the market review into card-acquiring services.

The EMA is the European trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

[redacted]

EMA Response

Initial EMA comments

Evidence-based and proportionate remedies

The remedies contemplated in the Consultation are focused on enhancing merchants' ability to search for a better deal and switch or negotiate with their existing acquiring service provider. However, the EMA notes that the evidence presented in the PSR Market review into card-acquiring services: Final Report of November 2021 ('**Final Report'**) does not fully support the proposition that merchants find it difficult to switch or are prevented from switching because of a lack of available information or lack of resources. More specifically;

(a) evidence on merchants' ability to switch
- merchant survey showed that 76% of merchants who recently switched found it easy;
- over 50% of merchants that recently switched, and 65% of merchants that recently considered switching and searched for providers, reported that searching was easy;
- of the merchants who switched their provider in the last two years, 46% said there was nothing that would make them more confident about deciding which provider to switch to, and around 23% cited factors to do with better quality information (including access to more comparable pricing information, knowing more about the provider, better quality or more accessible information). [Final Report paragraphs 6.30, 6.31 and 6.33]

(b) evidence on the reasons for merchants not switching
- in the merchant survey, 64% of merchants that had not considered switching in the last two years reported satisfaction with their provider as a reason for this;
- from those merchants that considered switching in the last two years but didn't switch, only 10% said they lacked time or were too busy was the reason (whereas 35% of merchants said they stayed with their provider because they thought their provider was still the best option and 25% of merchants said their current provider gave them a discount or a better deal). [Final Report paragraphs 6.38-6.39]

The EMA considers the remedies proposed should provide evidence-based and proportionate solutions to specific problems in the acquiring market. EMA considers that the causal link between the PSR's findings (merchants do not shop around) and the proposed remedies should be more fully substantiated to ensure the remedies address the root of the problem and minimise unintended consequences. The EMA would welcome further analysis in this regard.

The value of merchant savings should be clear

The EMA does not believe that it has been shown that the savings made by a merchant on total price are proportionate to the time and resources employed by the merchant to compare options and switch providers. The PSR's evidence in the Final Report indicates that small and medium-sized merchants who signed up with their acquirer recently pay less compared to merchants who have been with their acquirer for several years; and that merchants who joined their acquirer after the IFR caps came into force pay less than those that joined before. However, the PSR was not able to estimate the benefits from switching as its analysis did not differentiate between merchants that are new to card payments and those that are switching provider. [Final Report paragraph 5.57] In the merchant survey, nearly 90% of those merchants who negotiated with their providers "were successful in negotiation better price or non-price terms" [Final Report paragraph

6.50]. However, the Final Report and the Consultation do not present solid evidence around the amount of savings made by merchants who renegotiated or switched, nor how such savings compare to the time and recourses employed in doing so. The value of savings for merchants, should the remedies proposed by the PSR be introduced, remains unclear.

The EMA believes the proposed remedies have the potential to introduce significant unintended consequences and distortions in the acquiring market, which could ultimately result in higher prices for merchants. It is essential to carry out a robust cost-benefit analysis and test the various proposed remedy scenarios against the value savings to be made by merchants.

Consumer markets-based remedies

The remedies the PSR is exploring (summary boxes, trigger messages, development of digital comparison tools) have been explored and applied in consumer markets with simpler product/service propositions. Typically, there is no price negotiation in these markets and the products are more standardised across buyers. The market for card-acquiring services, on the other hand, is a more complex business-to-business market, with merchant-bespoke propositions where the price is frequently negotiated. The EMA believes that these characteristics of the card-acquiring services market mean that not all of the remedies contemplated in the Consultation are appropriate or will be effective.

Market developments

Aspects of the card-acquiring market have changed since the PSR initially conducted their research, and we note the research focussed on established market participants. The PSR's thinking on the proposed remedies has also evolved significantly from, for example, that explored in its interim report. It would be useful for the PSR to revisit their research by collecting further data and feedback from new entrants in order to update their findings and to test the proposed remedies against the current market conditions.

For example, the EMA believes the PSR may find that the market has already moved significantly to address some of its concerns, such as for example, in terms of technological innovation improving the uptake and popularity of software or mobile based POS terminal solutions, which means that it may not be appropriate to pursue the proposed remedies concerning POS terminals at this time. Another example is innovative merchant solutions such as payment orchestration platforms that enable merchants to have more than one acquirer therefore giving merchants more leverage to negotiate favourable pricing, as well as the freedom to direct payment processing volumes to multiple acquirers at a time, in effect enabling merchants to 'shop around' seamlessly. The EMA believe the market has already moved to address the PSR's concerns and it may not be appropriate to introduce the remedies at this time, at the risk of slowing down the pace of innovation and market development in this area or steering their course towards less convenient or competitive solutions for merchants.

Need for differentiation between merchants

The proposed remedies do not differentiate between merchants of different size by card-turnover or type (e.g. e-commerce/online vs traditional physical stores/point-of-sale). The PSR's research focused on small and medium-sized merchants (i.e. those with annual card turnover up to £10 million), but its findings have been extrapolated to large merchants (with annual card turnover between £10 million and £50 million) on the basis that they are likely to face similar issues. This may be so, but large merchants are more likely to have better bargaining power, the resources and incentives (due to their card volume) to search for a better deal. The small, medium and large merchant pool is a heterogenous group with different needs including on price, payment environment (e.g. e-commerce or point-of-sale), types of payment methods accepted (e.g. Visa, Mastercard, other non-card based methods), support services as well as the pool of acquirers to choose from (certain acquirers not be offering their services to merchants below a certain turnover level and/or in certain sectors). The EMA believes there should be further differentiation, in considering the remedies proposed, between the different categories of merchants by type (e.g. e-commerce vs point-of-sale) and by size. Without such differentiation, it is difficult to assess or predict how effective the proposed remedies are, nor how any unintended consequences of the proposed remedies will affect a specific group of merchants, and how any savings to be made by them will compare as against their costs.

Questions for stakeholders on summary boxes

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Evidence-based and proportionate remedy

As stated under Initial EMA Comments above, the EMA believes the proposed remedies should provide evidence-based and proportionate solutions to specific problems in the acquiring market. The EMA would welcome further analysis on how the summary boxes remedy will address the PSR's finding (merchants do not shop around), considering the lack of strong evidence that merchants are prevented from doing so due to lack of information or resource in finding the acquiring service information.

Effectiveness of summary boxes

As a principle, the EMA supports price transparency. The EMA has previously supported regulatory information requirements giving effect to greater transparency of pricing at both a UK and European level. The EMA is of the view that price transparency can improve competition in the market. However, we consider that the benefits of price transparency can be more limited in relation to services for business customers where the services are bundled or bespoke to the customer(s) in question.

The EMA does have reservations as to whether summary boxes would be effective in improving the merchants' ability to search and switch between providers, see further reasons below. The PSR acknowledges this in its Consultation, "*[e]vidence on the effectiveness of summary boxes is mixed.*" [Consultation paragraph 2.15]. We note that such evidence and thinking is based on competition remedies in consumer markets, not highly complex business markets comprised of a heterogenous group of merchants of varying sizes and needs, for whom services are often offered on a bespoke or bundled basis.

Comparisons will be misleading and not meaningful to merchants

The price of acquiring services is variable and depends on many factors such as the merchant's transaction volume, type of cards supported, total turnover, location of the transaction, the merchant's sector and other factors. The available offering of non-price service elements such as billing, settlement times, and merchant support services also often vary depending on the factors listed above, and may have an impact on price payable (e.g. higher fees for higher risk transactions or better customer service). As factors differ significantly between merchants, and the actual final price and service offering is tailored to the merchant (i.e. is bespoke), EMA believes that it would be very difficult to disclose generic information in a standardised format in a way that remains specific enough to the specific merchant's circumstances and so enables meaningful comparison.

Any generic summary box information would have to be expressed as a broad summary or a range (e.g. a range of prices available). Alternatively, or in addition, any published information that was not tailored to a specific set of factors would also have to be heavily caveated to avoid the risk of being considered misleading. If more tailored generic summary boxes were preferred, the information would likely have to be represented as multiple summary boxes, at the expense of quick and easy comparisons.

In summary, standardised form summary boxes do not lend themselves easily to presenting the full array of relevant information necessary for meaningful comparisons without boggling down merchants in too much detail. Further, high level detail summary boxes could potentially become misleading to merchants (for example, if they get an impression they would be able to get a better deal as advertised, when it is not available due to merchant's specific factors). Consequently, the EMA has reservations over the effectiveness of summary boxes to enable quick and easy like-for-like comparisons in a way that does not potentially mislead merchants into false impressions about the deals available.

<u>Reducing competition on pricing and freedom to negotiate</u>
Publishing acquiring service information as summary boxes could have significant unintended consequences, ultimately hindering competition.

Any published acquiring service price information will be available not only to merchants, but also to competitor providers. Providers with the lowest price could increase their prices accordingly. In time, this could lead to alignment in pricing across different acquiring service providers, reducing the competition on price. Those providers whose prices are at the lower end of the market would feel even less competitive pressure to renegotiate or offer better deals to merchants.

Fully transparent pricing is also likely to take away the advantages arising from acquirers' and merchants' commercial freedoms to agree their own contractual terms. The specific circumstances of microenterprises with limited ability to negotiate the terms of their payment services contracts are already adequately addressed in the Payment Services Regulations 2017 by affording microenterprises equivalent rights to that of consumers. The proposed remedy covers merchants with a turnover of up to £50 million. Merchants who are not microenterprises with a turnover of £50 million or more, are capable of negotiating their own commercial terms. Acquirers may feel little pressure or in fact be prevented from deviating from the terms published in their summary boxes when negotiating with merchants, thus hindering their ability or incentives to offer better terms to merchants. Acquirers may also be prevented or disincentivised from offering incentives to merchants for switching (unless such incentives are also published, in which case they would have to be offered to everyone).

The PSR may also wish to consider whether acquirers publishing pricing may have unintended and negative effects on payment facilitators. The buy rate or margin a payment facilitator has agreed with their acquirer can be easily calculated by comparing the acquirer's price with the payment facilitator's price, revealing the payment facilitator's commercial arrangements with its acquirer to its competitors. This may have the effect of reducing the payment facilitator's (already small) margin and making it impossible for them to compete, thereby reducing competition in the market for acquiring services.

For these reasons, the EMA believes the summary box remedy could hinder and reduce competition on price, thus resulting in worse outcomes to merchants. We would welcome a further analysis in this regard.

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?

The EMA, in principle, supports transparency. However, the EMA has concerns over the effectiveness of summary boxes, see response to Question 1 above.

In particular, the EMA does not believe generic summary boxes, due to their generic nature, will be helpful or meaningful to merchants. In fact, we believe there is a risk of merchants, having seen other acquirers' generic summary boxes, feeling disappointed or misled, where the specific (e.g. lowest price) offer is not available to them due to merchant's specific factors or circumstances, thus eroding the overall confidence in the generic summary boxes. Consequently, we do not believe generic summary boxes will improve merchant engagement.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

Varied pricing structures and bundled pricing

The EMA notes that the structure of acquirer pricing varies significantly. The pricing structure may or may not involve per-transaction fees, additional fees per type of transaction (e.g. e-commerce) or per specific event (e.g. chargeback or refund) and fees for value added services such as PCI DSS compliance, payment gateway services, POS terminal hire charges. The cost of ancillary services may or may not be bundled with and/or subsidised by the price of the core acquiring services. Therefore, the difficulty of providing information which enables like-for-like comparisons should not be underestimated.

Inclusion of non-price service elements

The EMA supports the PSR's proposal that non-price service elements should be included in summary boxes. Factors like billing, settlement times, merchant support services and ancillary services like payment gateway and POS terminal leasing arrangements are as important considerations for merchants as the pricing for core acquiring services. As some firms might subsidise their acquiring costs with higher costs for other ancillary services or vice versa, the EMA would support, to ensure transparency and enable comparisons, a summary box format which allows acquirers to include their most important ancillary/ad-on services.

Bespoke Summary box: Consultation examples

The EMA's views on the content proposed to be contained in bespoke summary boxes are set out below.

- ***Pricing information for the merchant, including prices per transaction, service consumption data broken down by different types of cards, the amount paid by the merchant for their card-acquiring services in the previous 12 months, and how this has changed since the start of the contract.***

The EMA supports including pricing information for all service elements, including ancillary services that are provided and charged for by the acquirer. Acquirers must not be required to provide pricing information for ancillary services where those services are sourced by merchants from third parties, e.g. gateway or POS terminal services, because acquirers would often not have this information.

Information on how the total amount has changed since the start of the contract should however not be included – such increases are likely to result from increases in the merchant transaction acquiring volume/composition and so may create a misleading impression that the acquirer has increased their charges.

- ***Non-price elements of the service to enable the merchant to understand the full package of their card-acquiring service.***

The EMA supports including non-price service elements that are provided by the acquirer (but not sourced from a third party), even where such elements do not attract a separate charge.

- ***The end date (if any) of the minimum term for the merchant's contract.***

The EMA agrees this should be included.

- ***Where there is no minimum term, or the minimum term has passed, an indication that the merchant is free to change card-acquirer without penalty.***

The EMA agrees this information should be included.

- ***Information on how switching works and what merchants should do if they want to switch.***

The EMA would welcome clarification regarding what information about switching acquirers would be expected to provide. Acquirers should not be expected to advise on where to find alternative acquiring service providers, nor can they provide information on the on-boarding and/or set up requirements that would apply with the new acquirer (as these are determined by the new acquirer). Therefore, there is little information on switching that a merchant's current acquirer can actually provide, other than explaining how and the consequences of the merchant terminating their contract with the current acquirer (for example, the minimum termination notice period and how quickly would all of the current acquirer's services stop following termination). The PSR should ensure that acquirers are only expected to provide information that is within the acquirer's knowledge/sphere of competence.

- ***Arrangements for POS terminal switching if the merchant opts to switch their card-acquiring service, including POS terminal lease minimum-term end dates if applicable.***

Acquirers should only be required to provide such information when POS terminals are part of the services provided directly by the acquirer to the merchant (and not, for example, sourced from a third party).

- ***Information on potential savings to the merchant from switching.***

The EMA disagrees that such information should be provided in the bespoke summary boxes. It would be impossible for an acquirer to estimate the merchant's potential savings from moving to another provider. There is no standard acquirer price and service offering against which any meaningful comparisons could be made; any generic estimations are likely to be misleading because they would not reflect the price or the services that the switching merchant would actually recieve.

If the expectation is that the comparison is to be made against the lower-priced option offered by the same provider, the comparison is likely to obscure other highly important non-price factors as the lowest-price option may not include other ancillary services or come with other disadvantageous terms such as longer settlement times or higher reserve requirements. Further, some members report that systematically calculating potential savings across the acquirer's own tariffs would require significant bespoke system builds, the cost of which should not be underestimated.

Generic Summary Box: Consultation examples

The EMA's views on the Consultation examples of information proposed to be contained in generic summary boxes are set out below.

- ***Presentation of pricing information in a comparable format which would assist quick and easy comparisons by merchants that want to compare summaries across a number of acquirers.***

The EMA does not support disclosing acquirer pricing information in generic summary boxes, due to concerns that publication of such information could have significant unintended consequences, ultimately hindering competition, see further our response to Question 1.

Further, the EMA believes that designing a comparable format for presenting the pricing information will be challenging, considering the varying pricing structures and the fact that acquiring services are often bundled with ancillary services. The comparable format should allow for presenting where appropriate non-price service elements/ancillary services are offered for free (and so likely subsidised by the per transaction fees).

- ***Transaction charges for the largest types of card purchase. For example, Visa and MasterCard account for a high proportion of transactions between them across both their debit card and credit card products.***

As above, the EMA does not support disclosing acquirer pricing information in generic summary boxes, due to concerns that publication of such information could have significant unintended consequences, ultimately hindering competition, see further our response to Question 1.

The EMA notes that transaction charges agreed with a specific merchant may depend on many factors such as the merchant's transaction volume, type of cards supported, total turnover, location of the transaction, the sector in which the merchant is in, and other factors. Consequently, acquirers and ISOs may only be able to disclose their transaction charges in the generic summary box as a range. Alternatively or in addition, such generic transaction information may have to be heavily caveated so as not to constitute misleading information. The EMA believes that, for these reasons, generic summary boxes may be of little use to merchants.

- ***Non-price service elements – for example, billing, settlement times, merchant support services, POS terminal lease arrangements, security, fraud prevention, currency conversion. This information would improve the capability of merchants to understand and compare prices and overall value by making other service elements more transparent.***

The EMA agrees the disclosure of non-price service elements is important, to aid transparency.

- ***Information on how switching works and what merchants should do if they wish to switch.***

The EMA would welcome clarity on the information on switching that acquirers may be expected to provide. The PSR should ensure that acquirers are only expected to provide information that is within the acquirers' knowledge/sphere of competence, e.g. how to apply for their services and perhaps their on-boarding process. Acquirers would not be able to nor should be expected to provide information on terminating the outgoing acquirer's services.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

The Final Report appears to assert that all small and medium-sized merchants (i.e. those with annual card turnover up to £10 million) and large merchants (with annual card turnover between £10 million and £50 million) experience the same impediments to shopping around. As merchants' size, type (e.g. traditional physical store and e-commerce/online merchants), industry and therefore needs for acquiring services are so varied, this is unlikely to be the case. New merchant entrants are also likely to have different information needs from those who already use acquiring services.

In particular, the EMA notes that large merchants with annual card turnover between £10 million and £50 million are assumed to suffer from similar impediments that restrict their searching and switching behaviour as the smaller merchants, even though the large merchants were not represented in the merchant survey. The EMA believes that large merchants are much more likely to already have the right incentives for shopping around (due to the value of their transactions and so potential savings) as well as internal resources and the ability to absorb the costs of searching. The larger merchants are therefore less likely to benefit significantly from summary boxes, as they are not impacted to the same degree by the same impediments to searching and switching.

As regards merchants of any size or type, the EMA is concerned that the unintended consequences from publicly available competitor pricing information will erode the competition on pricing and hinder their ability to negotiate better terms. See further our response to Question 1 above. Due to their size and lower bargaining power, smaller merchants may be disproportionately affected by these factors.

It would be helpful if the PSR were to assess, in more detail, whether the same issues affect all merchants by category (e.g. traditional versus e-commerce, new entrants versus existing merchants) and size, and then to tailor the summary boxes remedy to the particular type of merchant that would benefit the most.

Questions for stakeholders on stimulation of DCTs in the card-acquiring market

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

<u>Eroding competition and/or benefits to merchants</u>
The EMA believes that publicly available acquiring service pricing information will have unintended consequences that could eventually lead to alignment on pricing across different providers, disincentivise acquirers to offer lower prices, incentives or otherwise better deals, and erode merchant benefits and overall competition. See further our response to Question 1. The availability of such information on artificially stimulated DCTs, assuming broad coverage of the acquiring service provider pricing information, is likely to exacerbate such unintended consequences. In other words, it would also be easier for acquirers to compare their offerings against those of its competitors via DCTs, making it easier to adjust their prices in line with the market and having less pressure to offer better deals to merchants where the price is relatively low. Consequently, the EMA does not support the provision of acquiring service price information on DCTs because we believe this would lead to worse outcomes for merchants and lessen rather than enhance competitiveness of the market overall.

<u>Varied pricing structures and bundled pricing</u>
The EMA notes that the structure of acquirer pricing varies significantly. Acquirer transaction fees are complex, often consisting of interchange fees, scheme fees and the acquirer's margins where the underlying price elements can vary per transaction, merchant and card scheme. The pricing structure may also involve additional fees per type of transaction (e.g. e-commerce) or per specific event (e.g. chargeback or refund) and fees for value added services such as PCI DSS compliance, payment gateway services, POS terminal hire charges. The cost of ancillary services may or may not be bundled with and/or subsidised by the price of the core acquiring services. Given there are so many factors on which the acquirer pricing depends, the EMA does not believe it would be possible to compare acquirer pricing via DCTs effectively.

<u>Little evidence of effectiveness of DCT remedies in non-consumer markets</u>

Most of the thinking and lessons learnt on the effectiveness of DCTs in positively affecting completion (including the studies cited in the Consultation) concern consumer markets. It should not be assumed that the same considerations and evidence can be applied to complex card-acquiring service markets servicing business customers (merchants) of varying sizes, needs and degree of sophistication, where services and their price tend to be tailored to specific merchant's needs and circumstances.

The EMA would welcome further analysis on the effectiveness of DCTs as a remedy in relation to business (merchant) markets. For example, the EMA considers it may be helpful to examine the effectiveness of the comparison tools developed for SME business current account services (via CMA-supported Nesta challenge price) as a remedy following the CMA's Retail Banking Market Investigation.[1]

The use of DCTs may result in increased focus on price and merchants being sold services which do not meet their needs

The FCA's 2020 supervisory strategy for price comparison websites[2] offers valuable insights into problems associated with the DCT sector covered by the FCA's supervision, which include consumers being sold products that do not meet their demands and needs. More specifically, in the Market Study into home and motor insurance markets the FCA found:

"While PCWs [Price Comparison Websites] do not set the price, they do influence the dynamics of competition and pricing outcomes for consumers. PCWs are an important distribution channel and can affect the market by:
1) intensifying price competition at new business
2) creating additional costs to providers (e.g., through the cost of customer acquisition)
The rapid penetration of PCWs into the market has encouraged consumers to shop around, but has also caused an increased focus on price, potentially driving consumers to purchase products that may not always meet their needs."

Depending on the commercial model developed for the DCTs for the acquiring services (which is at the moment unclear) and regulatory constraints (which do not currently seem to apply – see below), there is a significant risk that the use of DCTs may lead to merchants becoming overly fixated on price, or being driven towards search results which earn the DCTs the highest commission, consequently resulting in merchants switching to products which do not best meet their needs.

If the data on DCT platforms is not up-to-date, merchants may similarly suffer poor outcomes by relying on such information in e.g. deciding to switch.

Regulation of DCT conduct in relation to acquiring services

[1] CMA, Retail Market Investigation: Final Report, August 2016: https://assets.publishing.service.gov.uk/media/57ac9667e5274a0f6c00007a/retail-banking-market-investigation-full-final-report.pdf
[2] See FCA letter to price comparison website CEOs https://www.fca.org.uk/publication/correspondence/portfolio-letter-price-comparison-webiste.pdf

General consumer protection regulations which impact the conduct of DCTs, including via potential enforcement actions (e.g. Consumer Protection from Unfair Trading Regulations 2008, Consumer Rights Act 2015) apply as regards consumers, i.e. individuals that are acting outside their business, and so do not generally apply to services provided to merchants.

There are currently no voluntary accreditation schemes for DCT providers providing information on acquiring services (like, for example, those administered by Ofcom and Ofgem in the telecoms and energy sectors respectively).

The high-level principles identified by the CMA on how DCTs should behave, i.e. that DCTs **should treat people fairly**, by being **Clear**, **Accurate, Responsible** and **Easy to use** (**CARE**)[3] are focused on behaviour as regards consumers and so their applicability/enforcement concerning DCT services offered to merchants, is at the very least uncertain.

In summary, there appears to be limited regulation by way of legal requirements or voluntary standards (and potential enforcement action in case of failure to meet such requirements/standards) that apply to DCTs for acquiring services.

The EMA believes that, should DCT for acquiring services be stimulated, it is important to ensure that such DCTs are appropriately regulated. Without appropriate rules of conduct, merchants and acquirers cannot be confident that DCT for the acquiring services market will develop in a responsible manner and in a way that does not erode rather than enhance merchant benefits such as savings. The EMA would welcome clarity on the PSR's plans in this regard.

Evidence-based and proportionate remedy

As stated under Initial EMA Comments above, the EMA believes the proposed remedies should provide evidence-based and proportionate solutions to specific problems in the acquiring market. The EMA would welcome further analysis on how the remedy of stimulating DCTs will address the PSR's finding (merchants do not shop around), considering (a) the lack of strong evidence that merchants are prevented from doing so due to lack of information or resource in finding the acquiring service information; (b) there are already DCT providers in the market which allow merchants to compare and obtain quotes for card-acquiring services (Cardswitcher, Approved Index, Companeo); and (c) additional overall costs to merchants which would result from measures aimed at stimulating DCT market (e.g. DCT build and service costs or commission fees which could be ultimately passed onto merchants).

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

Lack of demand

[3] CMA, Digital comparison tools – market study: Final report, September 2017: https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-marketstudy-final-report.pdf

The EMA considers the limited number of existing DCTs in the acquiring market is likely indicative of the limited demand for such services.

Commercial model & incentives

The DCTs need to have incentives to build DCT platforms and offer their services, acquiring payment service providers to share their information with DCTs (where such sharing is needed) and the merchants to use the DCT services. A lot of the incentives are likely to be driven by the DCT commercial model.

The commercial model for DCT services needs to be viable and sustainable, and one that does not adversely affect the acquirer's ability to drive their business or compete effectively.

A lot of successful DCT solutions in the consumer market rely on commission payments from providers when a customer signs up for their services. Such commission-based models may not be attractive to acquirers unless they have the appropriate incentives, for example, if: (i) the volume of new customers justifies the additional cost; in a market where is limited appetite for merchants to switch (because, for example, they are satisfied with their current provider) the volume of new customers may be limited; or (ii) the acquirer is offered some form of exclusivity or preferential treatment to drive the number of customers signing up (which would impact the impartiality of the DCT provider). In a market where acquiring service margins are tight (for example, for the services provided by payment facilitators who use the services of other acquirers), the additional cost of commission payments may be prohibitive. Such additional costs are also likely to be passed on to merchants, thus reducing any savings made from searching and renegotiating and/or switching.

An alternative commercial model could be charging merchants for the use of the DCT. In order to recoup the costs of development and keeping the information on the DCT sites up-to-date, a subscription-based model is more likely. However, such a model is unlikely to be popular with merchants who can access information about acquiring services at no cost (e. g. directly from an acquirer), and only need to use the DCT service occasionally e.g. when looking for an acquiring provider for the first time.

Development costs and keeping information up-to-date

There are costs and technical barriers to developing DCT solutions for acquiring information. The investment is only justified where there is a demand for the service and a commercial model that will enable the recouping of such costs.

The information on DCT sites needs to be accurate and kept up-to-date. Building technical solutions to achieve this, e.g. such an API integrated with acquirer sites, can also be challenging and requires investment.

Regulation/standards

Both acquiring providers and merchants are likely to have more confidence in DCT services if they are appropriately regulated. Understanding the responsibilities if the data on DCTs is not kept-up-to date and the merchant complains is also important. What happens if the data has not been updated, and the merchant complained?

QUESTION 7: What information do you think should be provided to merchants by DCTs?

The EMA does not support the provision of acquiring service price information because we believe this could lead to alignment on pricing across different providers, disincentivise acquirers to offer lower prices, incentives or otherwise better deals, thus eroding merchant benefits and overall competition. See further our response to Questions 1 and 5.

The EMA would support the provision of general acquirer and their acquiring service information to merchants by DCTs, for example, information about the acquirer and their contact details, the scope of their target merchant market (such as e-commerce/physical point-of-sale, minimum card volume requirements or sectors acquirers do not deal with) and the general list of services offered (e.g. payment facilitation, etc).

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

There would have to be appropriate incentives for acquirers to provide information to DCTs, including to incur costs on implementing solutions to enable such information sharing. We do not believe that such incentives are easily found, without potentially adversely impacting the overall benefits to merchants (who may ultimately suffer a reduction in competition and/or higher costs).

The EMA does not support the provision of acquiring service price information to DCTs due to its potentially anti-competitive effects, see further our response to Questions 1 and 5.

Further, it is not clear how acquirers, ISO and merchants would be able to share the information relating to acquiring services and prices with DCTs, considering that such information is typically subject to contractual confidentiality obligations in for example, merchant acquiring services contracts or contracts between an acquirer and an ISO. If this proposed remedy is adopted, would merchant acquirers be prevented from including confidentiality obligations as regards their pricing in their contracts? The EMA would welcome further clarity from the PSR in this regard.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Without fully understanding the purpose. for which card acquirer-acquirer transaction data is collected and can be further used by DCTs (e.g. whether it can be sold etc.) merchants are unlikely to be nor should be confident about sharing such data with DCTs. A robust regulatory oversight framework is also likely to be necessary in order to increase confidence in use of such data by DCTs.

As highlighted in our responses above, the EMA believes the remedies should be evidence-based and proportionate to address specific problems. The EMA does not consider developing a framework and infrastructure for the sharing of merchant card-acquiring data, upon the merchant's consent, would be a proportionate response. This is particularly so where the summary box remedies are aimed at enabling merchants to make it easier to search for alternative acquiring service providers and/or would equip merchants on the card acquiring service consumption in order to run comparisons on DCTs.

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

No comment.

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

It would be helpful if the PSR were to assess, in more detail, whether the same issues affect all merchants by category (e.g. traditional versus e-commerce, new entrants versus existing merchants) and size, to fully understand how and whether DCTs would be beneficial to any particular category of merchants the most (considering the overall costs and unintended consequences of implementing the DCT remedies as regards those types of merchants).

Our response to Question 4 equally applies here.

Questions for stakeholders on contract trigger messages

QUESTION 12: Do you agree that provision of information by providers of card- acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

Potentially, but the EMA considers further analysis and testing would be needed in this regard. As per EMA's Initial Comments, the characteristics of a business market for card-acquiring services means that consumer market-based remedies such as trigger messages may not be effective or achieve the intended results.

QUESTION 13: Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

Yes, the EMA strongly agrees information trigger remedies are preferable when compared to imposing fixed-term contracts. The EMA has previously (in its response to PSR Market review into the supply of card-acquiring services – Interim report) flagged the significant unintended consequences of imposing an end date on merchants' contracts for acquiring services, including that such remedy would:

(i) create uncertainty for merchants over continuity of service and potentially put them at risk of being unable to trade;

(ii) put merchants in a weaker position to negotiate their current acquiring service terms or procure new terms, or to procure such contracts on more favourable terms other than/in addition to acquiring service price terms (for example, renegotiation may lead to higher implementation (POS terminal, etc) costs or requirement to establish a higher reserve account).

These unintended consequences would, ultimately, hinder the competition in the acquiring services market.

The EMA notes that the PSR is not at this stage exploring acquiring contract remedies, but that fixed-term contracts remain within the scope of the PSR's work, particularly if it considers the other remedies prove ineffective. Should the PSR decide to explore the fixed-term contract remedies at a later stage, the EMA would urge the PSR to carefully consider the appropriateness of such remedy given its significant downsides highlighted above.

QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

The EMA agrees it would be appropriate to deliver trigger messages to merchants before the end of their initial term and annually thereafter or, where there is no initial minimum term, annually.

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

<u>Parity with bespoke summary boxes</u>

Should the PSR choose to proceed with both the trigger message and the bespoke summary box remedies, the EMA believes the content of the trigger messages should be as closely aligned with the content of bespoke summary boxes (e.g. as regards the services provided and their cost) as possible. This should avoid any confusion arising from any differences between the two (e.g. due to timing or the format) and avoid the duplication of costs in extracting and preparing the information for the merchant.

In particular, the EMA believes that trigger messages should equally highlight the range of non-price factors/ancillary services provided under the contract as such services/factors are likely to be equally as important to merchants as the price paid for the acquiring services. If merchants are only reminded of the price paid, there is a risk they will unduly focus on price elements in searching for a better deal at the expense of finding a deal which best suits their needs and circumstances.

<u>Prompt message content</u>

The EMA's views on the proposed prompt message content are set out below.

- ***Information on the purpose of the communication***

The EMA agrees it may be helpful to include this information.

- ***How much the merchant paid for their card-acquiring services in the previous 12 months***

The EMA agrees it would be helpful to include this information.

- ***The amount that the merchant would save by switching to the lowest-priced option***

The EMA would welcome further clarity on what acquirers would be expected to disclose under this heading and how they would be expected to determine the savings to be made by merchants from switching. In particular, the EMA would welcome a clarification that this information is only to be included when the same acquirer has lower-priced options which are available to a specific merchant (and not, for example, when one exists with other acquirers or is not available to the merchant due to e.g. the merchants' card acquiring volumes or other specific circumstances).

The EMA considers that including the amount of savings to be made by switching to the lowest-price option is likely to be highly problematic. If the expectation is that the comparison is to be made against the lowest-priced option offered by the same provider, the comparison is likely to obscure other highly important non-price factors as the lowest-price option may not include other ancillary services or come with other disadvantageous terms such as longer settlement times or higher reserve requirements. Some members also report that the development costs of automating merchant savings calculations, taking into account the different merchant circumstances and factors affecting the availability of services and their prices, will be significant.

The EMA disagrees that acquirers should be expected to include an amount of savings to be made by switching to other acquirers. It would be impossible for an acquirer to accurately determine the merchant's savings from moving to another provider. There is no standard acquirer price or service offering meaningful comparisons could be made against. It is unclear how acquirers would be expected to determine what constitutes a lowest-price option in the market. If acquirers were expected to make their own determinations on lowest-price by surveying the market, the cost of such ongoing investigations would be disproportionate, especially considering that prompt messages containing this information are to be delivered to merchants on an ongoing basis (i.e. at different time to different merchants) so that the lowest-priced option to be compared against today may not be the lowest-priced option tomorrow. If the comparisons are to be made against any generic statements on price of another provider (e.g. expressed as a range), they are likely to be misleading because they would not necessarily reflect the price or the services the merchant who decides to switch would actually get.

- ***Information on non-price benefits of switching***

The EMA would welcome further clarity on what information acquirers would be expected to disclose under this heading, and how acquirers would be expected to determine and include this within the non-price benefits of switching. As in our comment above, the EMA believes it would be highly problematic to include such information in prompt messages. Switching to the lowest-priced option of the current or alternative provider is likely to be at the expense of the non-price benefits, i.e. such benefits are likely to be removed rather than added. If the comparisons are to be made against the non-price benefits of other providers, the costs of ongoing surveying of the market would be disproportionate. Providing general information of non-price benefits available on the market would likely be misleading, as it would not necessarily reflect the benefits which would be offered to/obtainable by a particular merchant who decides to switch.

- ***Information on POS terminal switching***

Acquirers should only be required to provide such information when POS terminals are part of the acquirer's services provided to the merchant (and not, for example, sourced from a third party).

- ***Information on how switching works, and what merchants should do if they wish to switch***

In principle, the EMA agrees that information can be included, that acquirers are only expected to provide information that is within the acquirer's knowledge/sphere of competence. Acquirers should not be expected to advise where to find alternative acquiring service providers, nor can they provide information on what on-boarding and/or set up requirements would apply with the new acquirer (as these are determined by the new acquirer). Therefore, there is little information on switching that merchants' current acquirers could actually provide, other than explaining how and the consequences of the merchant terminating their contract with the acquirer (for example, the minimum termination notice period and how quickly would all of the current acquirer's services stop following termination).

- ***A call to action***

No comment.

QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

The EMA would support a notification via the communication channels commonly used and agreed between the merchant and their acquirer. This could be in the form of an email or by way of a notification in the merchant's online account, however, we would not support a requirement to submit a notification in the form of a physical letter sent in the post, where this is not the usual communication channel.

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Our response to Question 4 equally applies.

Questions on POS terminals and POS terminal lease contracts

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

<u>Acquiring and POS terminal market developments</u>

Aspects of the card-acquiring market, including POS solution offerings have changed since the PSR initially conducted their research, which also focussed on established market participants. The PSR's thinking on the POS solution remedies has also changed from that explored in its interim report. The market has now moved on, and technical innovation has been able to deliver lower cost and simplified mobile/software-based POS terminal solutions such as those delivered via tablets or phones, which are increasingly popular. It is important to ensure the proposed remedies do not stifle innovation. The EMA believes the PSR's concerns (POS terminals and POS terminal leases discourage merchant switching) are already starting to be addressed by the market and the market should be given time to develop, rather than introducing POS terminal remedies at the risk slowing down the pace of innovation and market development in this area or steering their course towards less competitive solutions for merchants.

Proportionality of remedies in comparison to time and cost

As stated under Initial EMA Comments above, the EMA believes the proposed remedies should provide evidence-based and proportionate solutions to specific problems in the acquiring market. Implementing each of the proposed remedies, i.e. (a) POS replacement; and/or (b) POS terminal portability will likely have an impact in the market, which needs to be assessed in terms of increase in overall costs to merchants and consequent erosion of merchant savings from switching to other providers. Implementing either solutions will require time and cost to develop POS terminals that are configured to/certified by and compatible with every acquirer in the market. The scale of such an exercise should not be underestimated. As regards POS terminal portability, merchants are quite likely to want their terminal replaced (due to wear and tear of the existing terminal or improved functionality/features of new terminals) when they switch acquirers. This significantly weakens the case for the time and costs necessary to implement technical solutions for POS terminal portability. From the merchant's perspective, the operational costs of having to adapt either solution may far outweigh the benefits. The EMA would welcome further analysis in this regard.

Impact on POS terminal ancillary services and costs

POS terminal contracts that are hire (rather than hire purchase) contracts often have costs associated with ancillary services such as technical support costs, or terminal firmware upgrades. POS replacement/portability remedies must also be considered in terms of their impact on the continued availability and cost of such services (for example, whether this would likely shift the responsibility for such ancillary services onto merchants.

Linking the contracts for POS with the contracts for the acquiring service

In comparison to the above proposed remedies, the EMA considers that linking contracts for POS with the contract for acquiring when POS and acquiring as sold together as a package, so that each contract can be terminated concurrently, would be a simpler and more effective remedy to address the PSR's concerns (to the extent they are not alleviated by the market developments, as stated above). This could be aided by a legal doctrine of frustration. Frustration enables the discharging of a contract when something occurs after the formation of the contract that renders it physically or commercially impossible to fulfil the contract, or transforms the obligation to perform into a radically different obligation from that undertaken at the moment of entry into the contract.

We note, however, that some further analysis and thinking would be required on how such contract "linking" remedy should or could be achieved, particularly where the contracts for acquiring and POS are offered by different parties i.e. the acquirer and the ISO respectively. Most importantly, however, should the PSR decide to pursue this remedy, it must be implemented on an evidence-based and proportionate basis, considering the market changes which have occurred since the PSR's research into it.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

Ultimately, yes, it is a technical possibility but the EMA does not consider it to be an effective solution in terms of time, cost or impact on merchant benefits to address the PSR's concerns. See further our response to Question 18.

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

The EMA believes the proposed remedies should provide evidence-based and proportionate solutions to specific problems, in light of the current market conditions. The reform of POS terminal lease contracts may no longer be needed; the technical innovation and new entrant offerings in the market of lower-cost convenient POS solutions have increased since the PSR conducted its initial research. In other words, the market is already moving to address the PSR's concerns – see further our response to Question 18.

If POS terminal lease contract reform is to be considered further, we would welcome further clarity on the measures that such 'reform' would consist of. We would also urge the PSR to carry out further analysis on the merchant benefits to be achieved by these merchants, taking into account any additional costs and unintended consequences.

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

Please refer to our response to Question 18.

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

No comment.

QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

The metrics used to track the effectiveness of the PSR's remedies should include not only the number of merchants who have switched acquiring service providers, but also metrics to track the overall benefits/savings to merchants as well as additional costs incurred in switching. The metrics should enable a viable comparison on whether the merchants were, overall, better off after switching their provider as compared to position they would have been in without switching.

Questions on the approach to CBA for remedies

QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

The CBA should also take account of the benefits to merchants, such as reduced prices arising from the proposed remedies, as well as the costs incurred in searching, switching or the increase of costs of other ancillary services, so as to estimate the total net benefits to merchants.

QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

Our response to Question 24 above equally applies.

QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.
No comment

Members of the EMA, as of April 2022

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Modulr FS Europe Limited
MONAVATE
Moneyhub Financial Technology Ltd
Moorwand
MuchBetter
myPOS Europe Limited
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OFX
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Uber BV
Vitesse PSP Ltd
Viva Payments SA
Vivid Money Limited
Weavr Limited
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WorldFirst
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Yapily Ltd

Financial Services Consumer Panel

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

5 April 2022

By email: cards@psr.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to PSR CP22/1: Card-acquiring market review initial remedies consultation

The Panel welcomes the proposed remedies set out in the PSR's consultation and believes that the combination of greater transparency, price comparison tools, nudges and the removal of barriers to switching could do much to promote competition in the acquiring market. Opacity and complexity in pricing models, combined with barriers to switching, make it difficult for merchants to compare different acquirers and shop around for better deals, doubtless generating considerable inertia.

While we have no detailed comments on the individual remedies, we suggest an additional area that might warrant further examination is the Reserve Bank of Australia's exploratory work into the possibility of extending the Consumer Data Right (CDR) to acquiring services provided to small businesses. The CDR is currently being rolled out for consumer banking services in Australia, where it is known as Open Banking, and was specifically designed to address the types of market inefficiencies that are evident in the acquiring market. The RBA believes the CDR could make it easier for merchants to seek quotes from alternative payments service providers by allowing them to easily source and share their detailed card transaction data. Additionally, and over the longer term, it believes that third-party providers offering comparison (and possibly switching) services could also emerge, further reducing merchants' search and switching costs.[1]

At the same time as supporting the PSR's proposed remedies, we would like to stress the urgency of these being brought into place. More than half of retail payments are made by card in the UK, with total annual value nearing £900 billion according to UK Finance. According to the British Retail Consortium over 80% of retail spending is now made by card, and retailers spent £1.3 bn to accept payments in 2020 alone.[2] The importance of addressing costs in card payments is vital not only for small merchants which generally pay the highest charges, but also for end consumers who ultimately bear all the costs, most especially during this period of unprecedented stress on household finances.

Whilst we are cognisant of the depth and scope of this work and the complexities it has involved, we are disappointed by the amount of time that this work is taking, considering that the PSR first announced its review into card-acquiring in mid 2018. Over the ensuing three and a half years, cards have captured an even greater share of UK payments both by volume and by value. The scope for harm has increased commensurately and the harms

[1] See https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/consultation-paper-202105/pdf/review-of-retail-payments-regulation-consultation-paper-202105.pdf
[2] See https://brc.org.uk/news/corporate-affairs/cards-now-account-for-more-than-four-in-every-five-pounds-spent/

that have occurred in the interim in terms of increased costs for consumers are, of course, irreversible.

During the PSR's card acquiring market review, evidence was also provided which showed that scheme fees (included in the fees which merchants pay in order to accept card payments) had increased significantly. In addition, cross-border interchange fees increased significantly in the wake of the UK's exit from the EU. Taken together, as the PSR has noted, these developments pose important questions as to whether there are sufficient competitive constraints on card schemes. In November the PSR announced it will investigate this matter and assess whether any action is required. Again we would encourage the PSR to expedite this work.

Payments are fundamental to consumers and the UK economy and it is of paramount importance that there is access, choice and competition in the payments landscape. The payments marketplace is evolving at an unprecedented pace and we recognise the demands on the PSR's time and resources. We would nonetheless encourage the PSR to ensure it prioritises work that reduces consumer harms particularly those that result in increased costs for consumers.

Yours sincerely,

[redacted]

Global Payments

MARKET REVIEW INTO THE SUPPLY OF CARD-ACQUIRING SERVICES

GLOBAL PAYMENTS UK LLP RESPONSE TO THE PAYMENT SYSTEMS REGULATOR'S CONSULTATION ON REMEDIES

1. Executive Summary

1.1 This response is prepared on behalf of GPUK LLP trading as Global Payments ("**GPUK**").

1.2 GPUK welcomes the opportunity to respond to the Payment Systems Regulator's ("**PSR")** Consultation on Remedies ("**Consultation**") issued following the PSR's market review into the supply of card-acquiring services and publication of its final report in November 2021 ("**Final Report**").

1.3 GPUK is supportive in principle of the PSR adopting a package of remedies that are effective in addressing any features in the market for the supply of card acquiring services that restrict the ability and willingness of merchants to search and switch between card acquirers.

1.4 However, as GPUK noted in its response to the PSR's Interim Report, GPUK considers that a number of the PSR's key findings from which the proposed remedies derive, are flawed. For example:

1.4.1 GPUK's interpretation of the Merchant Survey[1] results, supported by its own experience, is that merchants are engaged, that they do search and switch and that there are no material barriers restricting merchants' willingness and ability to do so. [redacted]

[1] PSR Card-Acquiring Market Review: Merchant Survey

[redacted]

1.4.3 the benefits in terms of outcomes that could be achieved by small and medium-sized merchants if they switched was overstated.

1.5 GPUK is therefore concerned that the package of remedies proposed is disproportionate to the need to address features identified by the PSR in its Final Report.

1.6 GPUK also considers that the proposed remedies are likely to face a number of challenges in terms of design and implementation given the characteristics of the card acquiring market, and could lead to unintended consequences, e.g.:

1.6.1 although the remedies intentionally fall short of a direct pricing remedy requiring providers to simplify their pricing structures, proposals that seek to reduce pricing information to a simplified and common set of standard data points risk constraining pricing models across acquirers and different types of suppliers across the market thereby reducing product and pricing innovation and competition;

1.6.2 such reduction also risks presenting information that is not an accurate reflection of the offer a merchant would be able to obtain on a bespoke, negotiated basis and this could be misleading for merchants; for example, a simplified pricing approach that is common in the market may be 1.75% across all cards [redacted] where a typical consumer, domestic debit card would actually equate to <1%;

1.6.3 remedies that do not apply to the whole of market risk leading to an unlevel playing field - the scope of any remedy will therefore need to be capable of applying to all market participants to avoid the risk of either favouring some players and / or disadvantaging others;

1.6.4 any remedy must be sufficiently comprehensive and future-proofed to address market developments and the possibility of an evolving competitive landscape with new and diverse market entrants;

1.6.5 remedies could lead to disclosure overload on merchants or disproportionate burdens on suppliers and must therefore be designed with due regard to the existing, and to the extent possible future, regulatory and legal landscape;

1.6.6 remedies that encourage merchants to choose between suppliers of card-acquiring services could put acquirers in conflict with other FCA requirements e.g. treating customers fairly and would need to avoid putting acquirers under obligations that conflict with other obligations e.g. mPos is typically associated with blended pricing that is usually not the best solution for a merchant but one that could be chosen without a merchant being in a position to choose the best available option for it; and

1.6.7 the proposals could lead to complex and expensive remedies where the costs outweigh the benefits delivered; the PSR should therefore focus on those remedies

2 [redacted]

3 [redacted]

4 [redacted]

that are achievable and most likely to be effective in encouraging merchants to search and switch.

1.7 GPUK's position with respect to each of the remedies in isolation, and in combination, is summarised as the following:

1.1.1 **Summary boxes**:

1.1.1.1 GPUK agrees in principle with the PSR's comments at paragraph 2.17 of the Consultation that summary boxes for merchants in relation to card-acquiring services are likely to be most effective when provided in a bespoke format with tailored, merchant-specific information;

1.1.1.2 given the bespoke and complex nature of pricing, GPUK does not consider that generic summary boxes are likely to be effective at improving outcomes for merchants and GPUK has concerns that attempts to reduce complex data (price and non-price factors) to a set of simple data points to include in a generic summary box intended to facilitate searching and switching risk leading to higher, blended prices and could create confusion.

1.1.2 **Trigger remedies:** GPUK agrees that trigger remedies could serve as a helpful prompt to merchants to consider searching and switching and that these could complement bespoke summary boxes.

1.1.3 **DCTs***:* GPUK is strongly against the introduction of DCTs and has similar concerns to those raised by the proposal for a generic summary box. Additionally, GPUK would be very concerned about any remedy that included the transfer of, or access to, merchant transaction level data and / or any of GPUK's pricing models, algorithms or API software. GPUK does not consider that DCT's would have the necessary skills, knowledge or experience needed in the card acquiring market to be able to use the data or software to produce accurate or helpful outputs for merchants. [redacted]

1.1.4 **POS terminals***:* [redacted] Subject to further comments provided in this response, GPUK considers a contractual remedy would be a more appropriate and proportionate way of addressing the features identified by the PSR in its Final Report. However, the PSR should be mindful that reductions in contract duration would likely lead to higher monthly and other incremental costs.

1.2 GPUK therefore considers that the most effective remedies package would comprise a combination of bespoke summary boxes, trigger messages and contractual changes to POS terminal leases.

1.3 Finally, GPUK would encourage the PSR to continue to consult with the full range of stakeholders within the payments ecosystem prior to trialling, concluding on or imposing any remedies, so as to assist the PSR in understanding the full impact of such remedies and whether they can be achieved, and at what cost / benefit.

2. Consultation Questions

Summary Boxes

3. **Question 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?**

3.1 GPUK is generally supportive of the principle of introducing bespoke summary boxes as a means of providing information to merchants to help them search and switch between acquirers. GPUK does not consider that generic summary boxes would be meaningful, for the reasons set out below, and thus does not consider that they would improve merchant ability to search and switch between acquirers.

3.2 In order to improve merchants' ability to search and switch between acquirers, summary boxes would need to be easily understood and allow for comparability across providers. This would require information to be provided on a consistent and standardised basis across all market participants providing acquiring services, including acquirers, payment facilitators and ISOs.

3.3 GPUK considers however that there are a number factors about the card-acquiring market that raise issues as to how effective summary boxes could be at improving outcomes for merchants. These factors include the following:

3.3.1 there are a significant range of pricing structures and pricing models across the market which will make it challenging to ensure that information in summary boxes can be reduced to a data set that can be compared on a "like for like" basis;

3.3.2 as pricing is not generic, but specific to any merchant's particular profile and requirements, competitive pricing is achieved by being bespoke to each merchant's needs and that is not information that can be reduced to summary boxes;

3.3.3 the ability to simplify pricing data is inherently constrained by the complex nature of card scheme pricing, which ultimately drives and determines acquirer pricing. This imposes unavoidable limitations on the ability of an acquirer to reduce acquirer prices to a simple set of standard price points;

3.3.4 [redacted]

3.3.5 [redacted]

3.4 Summary box remedies that seek to simplify complex price and non-price data therefore risk reducing information to a set of data points that would not provide accurate or meaningful information about offers that would best suit a merchant's needs. This could lead to poorer outcomes for merchants.

3.5 GPUK therefore does not consider that generic summary boxes will improve merchants' ability to search and switch and considers there are likely to be greater challenges in achieving a meaningful generic summary box. GPUK considers rather that greater value to merchants is more likely to be achieved through a bespoke approach.

3.6 Finally, it will be important to ensure that the introduction of summary boxes, in whatever form, does not result in information overload to the detriment of merchants and that they work alongside, and take into account, existing regulatory and contractual disclosure obligations acquirers are already under.

4. **Question 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?**

4.1 In the light of GPUK's comments above in response to Question 1, GPUK considers that bespoke merchant summary boxes provided individually to merchants may be helpful to improve merchant engagement but that generic summary boxes are unlikely to provide any value to merchants.

4.2 With regard to bespoke summary boxes provided individually to merchants, this assumes that the merchant is already signed up to an acquirer and is accepting cards. In these circumstances, GPUK considers that bespoke information allowing that merchant to have clear information in respect of the key metrics concerning its card usage, including information on transaction pricing and other price and non-price elements, could help a merchant compare the service they are currently procuring with alternative providers, assuming the information is standardised across the market.

4.3 GPUK considers that the right level of tailored and specific merchant data, presented in a standardised format, could therefore provide a helpful benchmark against which to compare against other providers.

4.4 GPUK would suggest that information included in a bespoke summary box builds as far as possible on data that acquirers already provide to merchants, e.g. through monthly statements, in order to avoid both information overload to merchants and unnecessary additional costs to providers.

4.5 GPUK considers that bespoke summary boxes could be used effectively in combination with trigger messages and that there could be a helpful overlap between the information produced in a bespoke summary box and in a trigger notification.

4.6 For merchants already signed up to an acquirer, for the reasons set out above, GPUK considers individual data about a merchant's card acceptance is helpful because it is bespoke to that merchant and therefore provides an accurate and meaningful basis on which that merchant can search for comparable offers with alternative providers. In contrast, generic summary box information would have little, if any, relevance to an existing merchant, as the information would be only high level and incapable of providing a helpful indication of what prices would actually be available to that merchant on a bespoke and negotiated basis.

4.7 GPUK considers that a generic summary box would not therefore be helpful for merchants already accepting or new to cards and any potential benefits the PSR considers these may provide would need to be weighed against the limitations and possible risks of such an approach. For example:

4.7.1 given the complex nature of pricing, [redacted] GPUK considers that there is no generic summary box remedy that could deliver "quick and easy comparisons by merchants[5]" that would be meaningful;

4.7.2 any generic summary box remedy will need to take account of the fact that different market participants approach pricing differently. For example, [redacted]

4.7.3 GPUK is concerned that having to reduce complex, risk based pricing to a small number of data points would produce a misleading impression of the actual pricing available to merchants and as such would be of little value. [redacted]

5 Paragraph 2.13 of the Consultation

[redacted]

4.7.4 further it is difficult to see how important [redacted] To maintain simplicity and comparability, it would be difficult for the information captured in a generic summary box to be sufficiently comprehensive and to capture all these types of key metrics;

4.7.5 Card scheme fees change over time and acquirers update pricing on a regular basis. This presents real challenges in ensuring that any pricing information is up to date;

4.7.6 [redacted]

4.8 For the reasons described above, GPUK would suggest that the PSR does not progress a generic summary box remedy, but that were the PSR minded to do so, GPUK considers it would need to be heavily caveated, and if adopted, should be accompanied with a heavy health warning that the information provided is illustrative only, may not offer the best available deal and may change upon enquiry. The warning should make clear that pricing ultimately depends on the merchant's type of business, risk profile and other key metrics.

4.9 GPUK is also concerned that there could be an unintended consequence to a generic summary box if it drives the market to less complex pricing structures, including higher, blended prices. This could ultimately cut across the PSR's decision to reject a price simplification remedy, and stifle innovation and flexibility, leading to higher prices overall for merchants.

4.10 GPUK would note that where similar summary box remedies have been imposed in the UK following a market study (or a similar or equivalent process), the markets in which those remedies have been imposed bear strikingly different characteristics to that of the card-acquiring market[6]. The PSR should not conceive that just because they have been implemented in other contexts, that they would necessarily work in this unique market.

4.11 For the sake of completeness, an alternative approach, but one which GPUK considers is unlikely to address the PSR's concerns, would be for a generic summary box to cover only non-transactional price elements [redacted] which tend to be more static, with transaction pricing provided as an illustration only.

5. Question 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

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6 In particular, summary box remedies have been primarily used in consumer facing markets (cash savings, credit cards and mortgages), where the consumer requires a limited set of key information in order to make a decision. For example, the FCA's cash savings market study identified that consumers required four pieces of key information, interest rates, rate type, any bonus offer and restrictions on withdrawals. This is by contrast to the market for card acquiring services, where the purchasers are businesses and there are multiple elements of service and pricing offers which may be weighted very differently depending on the approach and needs of that business.

5.1 At a principles level, information in summary boxes should be well designed to facilitate ease of understanding and comparison. GPUK suggests the following approach should be followed when considering how information should be presented to support like for like comparison of services, to the extent possible:

5.1.1 the need for language to be clear, concise and consumer friendly;

5.1.2 avoidance of technical terms, unless necessary and then to be accompanied by a simple explanation or key to ensure consistency in "taxonomy";

5.1.3 the number of data points must strike the right balance between providing a sufficient amount of information to be meaningful but not providing too much to avoid complexity;

5.1.4 the need to focus on the factors that matter most to merchants (including service delivery; settlement times etc);

5.1.5 ensuring information required is not reduced to a narrow band of pricing that could have the effect of distorting competition;

5.1.6 the data points selected need to avoid leading merchants to focus disproportionately on the wrong factors or at the expense of other important factors (e.g. avoid focussing solely on price over important qualitative features about service).

5.2 For bespoke summary boxes GPUK is generally supportive of the types of information proposed in paragraph 2.12 of the Consultation, subject to the detail of what is being proposed. [redacted] As pricing is bespoke, the option simply to move a merchant onto a cheaper "tariff", as, for example in the energy market, is not available. The benefit to the merchant of having information is for the merchant to be able to compare its current package with alternative providers. [redacted]

5.3 As referred to above, GPUK would suggest that information required in a bespoke summary box is based on information that is easily available to an acquirer to avoid potentially considerable additional costs. GPUK has provided a copy of the information it provides to merchants through invoices in its response to the s.81 Notice.

5.4 For generic summary boxes, and for the reasons set out above, GPUK would not be supportive of the approach set out in paragraph 2.13 of the Consultation and refers the PSR to its general concerns about the limitations and risks associated with this approach.

5.5 [redacted]

6. **Question 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

6.1 GPUK does not have evidence to support a firm view on which merchants would benefit the most from the implementation of summary boxes.

6.2 [redacted]

[redacted]

6.3 [redacted] However, GPUK notes that a view based solely on the size of a merchant may not be a credible basis on which to base its view.

6.4 For the reasons set out above, GPUK does not consider that any merchants would benefit from generic summary boxes. Were the PSR to include a remedy by way of a generic summary box, PSR considers there is a risk that those SME merchants who may be the most likely to rely on simplified information may at the same time be most at risk of using information that does not lead to the merchant obtaining the best/most suitable offer for it in the market.

Digital Comparison Tools (DCTs)

7. **Question 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.**

7.1 GPUK does not support a DCT remedy and considers that the potential for DCTs to help merchants search and switch in ways to improve merchant outcomes is limited.

7.2 The Competition and Markets Authority's DCT Market Study[8] demonstrates that DCTs work best in consumer facing markets where there is little or no ability to negotiate the price, with a single style product in a mass consumer market. e.g. for credit cards.

7.3 The characteristics of the card-acquiring market are very different and do not lend themselves to a successful DCT remedy:

7.3.1 pricing is complex, bespoke and individually negotiated – this is very different to standard tariffs;

7.3.2 every merchant's needs will be unique to that merchant. [redacted]

7.3.3 this means that there are inherent risks associated with attempts to reduce complex pricing, and non-pricing information, to simple, comparable data as this would not be accurate or meaningful for a merchant either in its own right or when compared between acquirers and other providers of card acquiring services;

7.3.4 [redacted]

7.3.5 pricing is highly influenced by card scheme prices and therefore subject to ongoing change;

7 [redacted]

8 CMA, Digital Comparison Tools market study – Final Report, September 2017

7.3.6 providers operate very different business models; and

7.3.7 the market is highly fragmented and dynamic.

7.4 The PSR itself has acknowledged that "*the card-acquiring market has some characteristics which make it challenging for DCT's to operate*"[9]. GPUK agrees with this statement and considers it would be very difficult to overcome these challenges.

7.5 GPUK is concerned that even if merchants did engage with a DCT and this encouraged merchants to search and switch between providers of card acquiring services, the limitations on the DCT's ability to provide accurate and meaningful "quotes" or supplier selection, would not result in merchants obtaining information on the most appropriate or best deals available for them and, as a consequence, this could lead to worse outcomes for merchants. There is a potential inverse relationship between providing simple and comparable data and good outcomes for merchants.

7.6 Taking into account the nature of the card-acquiring market, GPUK therefore considers that DCTs have very limited potential to improve merchant searching and switching. [redacted]

7.7 Furthermore, [redacted] – see comments below under section 11.

7.8 Finally, in the light of the PSR's own merchant survey data which showed that only 10% of merchants would have more confidence to switch if they had comparable / standard pricing information, GPUK considers that a DCT remedy would be a disproportionate intervention by the PSR.

8. **Question 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?**

8.1 GPUK considers the main obstacles to the development of DCTs in the card-acquiring market include the following:

8.1.1 the inherent complexity and bespoke nature of pricing presents challenges to accessing input data in a way that can be deployed by the DCT;

8.1.2 the absence of any industry standard "prices" or "tariffs" that a DCT could access as input into its platform;

8.1.3 to identify a standard, consistent and comparable set of data points, [redacted] that are achievable for providers and which could helpfully be used by DCTs to compare providers on a truly comparable basis;

8.1.4 how to access and include information on important qualitative factors;

8.1.5 even where DCTs are able to access input data, DCTs would need to determine what key pricing points and non-price factors should be included to ensure that merchants do not overly focus on the factors that may be less important;

9 PSR consultation on remedies, paragraph 2.31

8.1.6 ensuring the quality of information is equivalent across different market participants where business models vary considerably; and

8.1.7 [redacted]

8.2 In addition to the obstacles arising from the complex nature of the data that would be required as an input, DCTs would not have the necessary knowledge or expertise to use that data to deliver helpful information to merchants. It is difficult to see how a third party without the knowledge and expertise of an acquirer could replicate the onboarding process and use the merchant data which enables the acquirer to produce a bespoke proposal.

8.3 In addition, it would be burdensome to ensure that the information held by the third party was up to date, [redacted] This would likely provide an additional obstacle to the development of an effective DCT.

8.4 GPUK is not clear as to how these obstacles could be overcome and considers that alternative remedies would be more effective in helping merchants search and switch.

9. **Question 7: What information do you think should be provided to merchants by DCTs?**

9.1 For the reasons set out above, GPUK is uncertain as to what information a DCT could provide to merchants to improve their ability to search and switch.

9.2 For the reasons provided above, GPUK considers this attempt to provide information that is overly simplified creates risks and would have little, if any, value to merchants.

9.3 In any event, were there to be a DCT remedy, in order to be helpful GPUK considers that any information provided to merchants would need to serve only as a referral mechanism for merchants to potentially suitable providers and not as a means for producing complex, bespoke proposals.

10. **Question 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?**

10.1 GPUK is strongly of the view that it would not be appropriate for acquirers to be required to share with DCTs either bespoke, merchant level transaction data or their own pricing models, algorithms, APIs or equivalent or other comparable service information beyond any such information included in a generic summary box (if implemented).

10.2 DCTs would not have the necessary knowledge or understanding of how to use any one acquirer's algorithm to produce accurate offers to merchants. [redacted]

10.3 Any DCT remedy, if pursued, would need to ensure that the data used by a DCT should be consistent with information provided by acquirers to avoid confusion, but that ultimately all bespoke pricing should remain with the acquirer.

10.4 GPUK considers that if the PSR were to pursue this remedy, it would be appropriate and necessary to consult further with stakeholders and to implement a feasibility study as proposed at paragraph 2.42 of the Consultation.

[redacted]

11. **Question 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?**

11.1 GPUK does not support the proposed approach that would enable merchants to share their card-acquirer transaction data with third parties so that this can be used by DCTs to assess merchant options, even where merchants want to do this and have consented to it.

11.2 In any event, GPUK does not consider that merchants are likely to feel comfortable and confident enough to share their card-acquirer transaction data with DCTs. [redacted]

11.3 Furthermore, the PSR would need to consider the legal implications of the collection and storage of this type of data within a DCT under the General Data Protection Regulation ("GDPR") requirements. [redacted] The PSR would also need to consider the other GDPR requirements such as the right to be forgotten etc. when reflecting on the challenges of such a remedy.

12. **Question 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card acquiring sector, and what could be done to improve this?**

12.1 GPUK is unable to say with any certainty whether merchants are likely to have confidence in a DCT in the card-acquiring sector but considers that merchants' confidence in DCTs is likely to be affected by the security of their data and the accuracy of outcomes.

12.2 GPUK would expect merchants to want to understand what governance and controls would be in place concerning its operation and the extent to which there was industry or regulatory oversight. The more tightly controlled or regulated, the more likely GPUK considers merchants would be confident in the service. GPUK considers that merchants' confidence may also be influenced by whether the DCT is industry owned and led or established as an independent commercial venture.

12.3 GPUK considers however, that merchants would have serious concerns about DCTs, or any other third party, accessing and holding their bespoke merchant data and there would need to be an extremely high level of confidentiality, security and governance to afford merchants any comfort around security that risks are dealt with.

12.4 GPUK also considers that in the absence of establishing a way for a DCT to provide accurate information that is meaningful to a merchant, merchant confidence would be low.

13. **Question 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response?**

13.1 Whilst GPUK considers it possible that [redacted], it is uncertain whether any merchants would benefit at all given the complexity of the merchant pool and a demarcation by size risks being overly simplistic.

Contract Trigger Messages

14. **Question 12: Do you agree the provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?**

14.1 GPUK agrees that a prompt to merchants towards the end of the initial term of their card-acquiring contract could improve merchant engagement and prompt merchants to consider searching and switching. Any prompts introduced should however seek to incur minimal additional costs to acquirers.

14.2 [redacted]

14.3 [redacted]

14.4 [redacted]

14.5 Additionally, GPUK considers it may be an option to send a contract trigger message when notifying a merchant of a pricing change. [redacted] GPUK considers that this could present additional or alternative trigger points that could serve to improve merchant engagement.

14.6 [redacted]

15. **Question 13: Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?**

15.1 Yes, GPUK agrees with this approach.

16. **Question 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term and thereafter? Please provide evidence to support your view.**

16.1 GPUK considers that it would be appropriate to deliver a trigger message 2 months before the initial contract expiry date. If a merchant chooses at that point not to exit, the contract would renew for a further 12 months.

16.2 GPUK considers it could also be appropriate to send a trigger message at any point when a price change is notified to a merchant. If the merchant does not choose to exit at that point, the contract runs for the remainder of the term. A trigger notice would be sent as above, in addition, 2 months prior to the contract ending.

17. **Question 15: Please comment on the content of potential merchant trigger prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:**

17.1 **Information on the purpose of the communication**

17.2 GPUK agrees this information should be included.

17.3 **How much the merchant paid for their card-acquiring services in the previous 12 months**

17.4 GPUK agrees this information should be included. Where the triggers are provided at earlier points in the first year of a contract, the information would necessarily cover the shorter period. This information could helpfully overlap with information provided in bespoke summary boxes. This information would need to be provided in conjunction with volumes processed and any changes to pricing so that fees can be fully understood by the merchant. This would be to avoid the risk that a merchant receiving cost information only may not appreciate that increased costs may be driven by processing more volume and not just that costs have increased.

17.5 **The amount that the merchant would save by switching to the lowest-priced option**

17.6 [redacted]

17.7 **Information on non-price benefits of switching**

17.8 In order to provide this information, GPUK would need to understand what constitutes "non-price benefits".

17.9 GPUK would be able to help identify what this might include, but the information it would be able to provide would necessarily be limited to information about those benefits it delivers and not what a merchant might be able to obtain by switching.

17.10 Any non-price benefits would have to be standardised across all market participants for this to work, which would be very difficult, and to allow merchants to make like for like comparisons (at least as far as is possible).

17.11 **Information on POS terminal switching**

17.12 [redacted]

[redacted]

[redacted]

17.15 **Information on how switching works, and what merchants should do if they wish to switch**

17.16 GPUK considers it would be possible to provide simple and limited information on switching which would enable a merchant to understand the process of exiting its payments contract with GPUK and moving to an alternative supplier. GPUK would not, however, be able to provide information about what other providers would need for a merchant to switch.

17.17 **A call to action**

17.18 GPUK considers a simple statement could be included to the effect that a merchant is free to review the market.

18. **Question 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.**

18.1 Where trigger messages are intended to be delivered by way of a standalone communication, in the case of GPUK, [redacted]

18.2 Were the PSR to consider including a trigger message in an invoice, [redacted]

18.3 GPUK considers that a trigger message is likely to be most effective if provided in relation specifically to a contract renewal or at the point of communicating a price change.

19. **Question 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.**

19.1 Whilst GPUK considers it possible that [redacted] it is uncertain given the complexity of the merchant pool and a demarcation by size risks being overly simplistic in this respect.

POS terminals and POS terminal lease contracts

20. **Question 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services; (b) POS terminal portability; (c) a combination of these (d) another solution? Please provide evidence to support your answer.**

20.1 GPUK does not support a technical remedy to address the issue identified by the PSR in respect of POS terminal lease contracts.

20.2 [redacted]

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10 [redacted]

20.3 GPUK therefore considers the concept of interoperability as unworkable given the complex range of terminal software integration, hardware designs and range of product specifications, with variance of functionality and features, of which large segments of the market are proprietary/owner-designed.

20.4 GPUK considers an alternative approach is to address the feature identified by the PSR through POS terminal contracts (see comments below).

21. **Question 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?**

21.1 No. GPUK considers that POS terminal portability is not currently possible.

21.2 Whilst, in theory, GPUK sees the goals of terminal interoperability, [redacted] GPUK would be unable to comment on the effectiveness of it.

21.3 However, [redacted] For example:

21.3.1 Acquirers operate bespoke payment applications, typically using industry APACS specifications as the foundation but adapt them for their specific use based on items such as solutions provided, security and host system specification. This means that there are fundamental differences in the language used meaning, beyond connectivity, message specifications would not be common and therefore understood;

21.3.2 Additionally, [redacted] and

21.3.3 [redacted]

21.4 GPUK would not be supportive of any measure which is regressive in ensuring the security of payment transactions nor the ability for acquirers to differentiate based on solutions.

21.5 [redacted]

22. **Question 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching providers of card-acquiring services?**

22.1 GPUK considers that it could be possible for the POS terminal contract to be made to be co-terminus with the card acquiring contract [redacted]

[redacted]

22.2 GPUK is strongly of the view that any POS terminal contractual remedy should apply to the whole of the market, [redacted] to avoid an unlevel playing field or obstacles to achieving the effectiveness of the remedy. [redacted]

23. **Question 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?**

23.1 GPUK expects new technology to disrupt the POS terminal market. For example:

23.1.1 [redacted]

23.1.2 [redacted]

24. **Question 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.**

24.1 Yes, GPUK expects that the introduction of POS terminal portability would have potentially significant impacts on third party POS terminal lease providers, including ISOs [redacted]

24.2 GPUK would also expect that POS terminal portability could lead to a complex network of commercial arrangements which risks creating uncertainty, for example around how responsibility for security and compliance issues may be allocated. GPUK considers this could result in incremental costs where synergies no longer exist, for example for merchant support. Additionally, maintaining terminal software to conform to multiple acquirers is likely to be more expensive as well as the costs of maintaining access to multiple VAS solutions and compliance releases.

Monitoring outcomes and the effectiveness of remedies in the card-acquiring market

25. **Question 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?**

We are also consulting on our approach to the CBA for remedies (see the annex). We would be grateful to receive responses from all stakeholders on these questions.

25.1 GPUK considers that merchant outcomes in the card-acquiring market could be assessed by comparing data from the period before and after any remedies come into effect. The metrics measured could include:

25.1.1 levels of merchant switching;

25.1.2 transaction prices; and

25.1.3 merchant satisfaction with the services procured from acquirers.

25.2 Data could be obtained both from acquirers /ISOs and payment facilitators and through merchant surveys.

26. **Question 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.**

26.1 GPUK has provided a separate response on costs in its response to the s.81 Notice.

27. **Question 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas**

27.1 Please see GPUK's response to the s.81 Notice.

28. **Question 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.**

Lloyds Bank Cardnet

[redacted]

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Response to the Payment Systems Regulator's card-acquiring market review initial remedies consultation

Submission Date: 6th April 2022

[redacted]

[redacted]

EXECUTIVE SUMMARY AND GENERAL OBSERVATIONS

Lloyds Bank Cardnet (Cardnet) welcomes the opportunity to respond to the Payment Systems Regulator (PSR) draft remedies following the PSR's initial Card Acquiring Market Review (Review) regarding the supply of card acquiring services.

At the outset, Cardnet would confirm its strong support, as a matter of general principle, for there to be in place mechanisms to allow merchants to access the services which, on price and key delivery features, best meet their requirements. Cardnet therefore supports the general sentiment that is driving the PSR's consultation and consider it represents entirely the sort of issue that should be considered by the industry and welcome the debate that the PSR has engendered.

THE NEED FOR ANY REMEDIES TO BE EFFECTIVE

Summary Boxes and Digital Comparison Tools (DCTs)

As the PSR will see, Cardnet supports mechanisms that provide clear and concise detail on merchant charges where that is possible. Accordingly, Cardnet can see the potential benefit of summary boxes and the potential use of DCTs where the information is amenable to comparison, most obviously where there is a single price point across all card types and methods of acceptance. In practice this would apply to merchants with not more than £100k of card turnover.

However, Cardnet would question the suitability of these remedies where pricing is by necessity more complex in nature and not amenable to simple fixed rates across all card types (merchants with turnover of more than £100k). The provision of summary information directly by acquirers or via a DCT (where price and service information may not be properly assessed and presented) may indeed be counterproductive in causing merchants confusion and information overload and may result in less competition rather than support a dynamic and competitive market.

We would also like to draw your attention to the work undertaken by the Lending Standards Board regarding the introduction of summary boxes for credit cards. It is important that any learnings are taken from this exercise to ensure successful implementation in the card acquiring industry, and Lloyds Banking Group will be happy to have a further industry-wide discussion to share our experiences.

Trigger Messages

Cardnet believes trigger messages could usefully be offered across the industry. Indeed, it is something Cardnet has now introduced to a significant number of its merchants, reflecting a belief that trigger messages can benefit the merchant in helping ensure they are on the right products for their needs. This in turn allows Cardnet to better serve its merchants, and which, in summary, results in a stronger relationship with merchants at all card turnover levels. Cardnet considers the introduction of a standard, pan-industry requirement to issue trigger messages is the very sort of proportionate and effective remedy that the PSR should be considering for the industry to address the PSR's feature of concern.

POS Devices

Cardnet refers the fulfilment and servicing of its POS Terminals (terminals) to third parties who have the contractual relationship with those merchants. Cardnet is not, therefore, best placed to comment on the PSR's proposed remedies in this area.

However, over the next 5 years, Cardnet expects the current industry trend of lower card turnover merchant's needs being met by simple, low cost or pay as you go (PAYG) solutions to continue. Indeed, Cardnet also expects that software-only solutions will become increasingly popular, with merchant needs being met with Apps, Soft POS, Pay by Link, QR Codes and Virtual Terminals, bypassing the need for traditional terminal hardware and associated contracts. Furthermore, recent announcements by Apple will likely lead to further innovation and remove legacy barriers to taking card payments. This industry dynamic is welcomed by Cardnet as it will make the switching of acquirer easier for merchants. [redacted]

Given the current and anticipated future evolution of terminal provision, Cardnet does query the need or proportionality of the PSR's approach regarding POS terminal portability on the basis that:

[redacted]

- Technical Restrictions: Cardnet considers there is a real and genuine risk that technical intervention of the type proposed (particularly portability) will drive substantial development needs and costs thus making card acquiring more expensive, including merchant pricing.
- Contractual Restrictions: in practice, it is increasingly common for acquirers to cover switching costs (including termination fees) and the PSR itself notes in its consultation the commercial benefit to merchants that flow from the general/current approach in the industry.

THE NEED FOR ANY REMEDIES TO BE PROPORTIONATE

Cardnet welcomes the PSR's express recognition, per its statutory obligations, that any remedies taken forward must be proportionate, that is to say, they must go no further than is required to achieve the stated objective (namely, and in broad terms, measures to encourage merchants to search and switch between card acquirers).

In making that assessment and carrying out the Cost Benefit Analysis, and without wishing to re-open a debate on the conclusions reached by the PSR in its November 2021 Final Report, the PSR does need to factor in the pro-competitive features of the market it itself has identified and calibrate any proposed remedies, and the costs placed on industry participants.

MERCHANTS AND ACQUIRERS IN SCOPE

Across all responses Cardnet has opined that the scope of this review, and any subsequent remedies, should be limited well below the £50m turnover point outlined by the PSR. Cardnet would also note that since the PSR report was issued, the FCA has announced it will be introducing rules in respect of Consumer Duty with the intention of ensuring good outcomes to small businesses. We therefore suggest that the scope and perimeter of this review should align with Consumer Duty.

Whilst the alignment suggested above will be hugely beneficial, we do need to recognise that there will still be implementation challenges in respect of some of the remedies, based primarily on the turnover and pricing structure of the merchant.

Cardnet believes that for merchants of smaller turnover, and thus less complex pricing structures, these initiatives could, subject to the suggestions made in the responses below, be beneficial. However, for many merchants above £100k of card turnover, and almost all merchants above £1m of card turnover, these initiatives would be both difficult to effectively implement and in most cases counterproductive, for the reasons stated above and as set out in detail in the responses below.

Cardnet would also note that equal treatment, effective monitoring, as well as the need to allow a level competitive playing field and drive holistic good merchant outcomes, requires that all participants in the card acquiring market, including smaller and more 'fintech' type organisations, are subject to the same regulation.

SCHEME FEES

In assessing the appropriateness of targeting remedies at acquirers, the PSR must consider in greater depth Scheme Fees. These are both complex and subject to increases. They present not only a challenge for acquirers in simplifying pricing approaches but also to merchants in terms of price increases. A recent example of this is Visa's decision to make a wholesale increase to the cost of accepting Visa Business UK Debit Cards.

Cardnet notes that the increase in scheme fees and their complexity is only referenced relatively briefly in the PSR's Review. However, given the increasingly highly complex nature of scheme fees, and how some of these fees have consistently increased over the past few years, Cardnet feels that the PSR needs to give further consideration to the issue. For further context, since 2016 Cardnet has seen their scheme fees more than double, as evidenced by Figure 11 under Section 5.9 in the PSR's Review.

In particular, the complexity of scheme fees impacts the ability to provide meaningful price comparisons (as indicated by the PSR as a possible remedy), particularly to small and medium sized merchants whose principal interest is simply in the overall cost of acquiring, rather than seeking to understand the individual components that make up this overall cost. This is particularly relevant for those merchants above £100k card turnover where one fixed price (which lends itself to easy comparison) may not be the most suitable option and yet the alternative pricing structures contain inherent complexities.

[redacted]

However, this simple price point remains increasingly difficult for acquirers to calculate based on the multitude of card price points that the Schemes use in determining rates for different cards and transaction types. This is exampled by the fact that Cardnet currently has scheme fee tables for Visa and Mastercard with 24 different rates and, in many cases, multiple rates being applied to a single transaction (see appendix 1 as an example of Visa and Mastercard fees).

While Cardnet does appreciate the decision made by the PSR, in the Review's Terms of Reference (ToR), not to focus on scheme fees and that these may be subject to a separate review, Cardnet would welcome a PSR focus on these fees in the context of providing simple pricing for merchants, including the PSR's plans on timings for the separate review. Providing a 'simple' price point to a merchant is intrinsically linked to the scheme fees which are extremely complex in their structure therefore making it particularly difficult to achieve. With this in mind, Cardnet would again urge the PSR to consider the industry's pricing structure before the introduction of any price comparison requirements or initiatives relative to acquirer activities.

CREDIT RISK DECISIONS

It is also important to note that the complexities of a merchant's price are further compounded by the sector in which the merchant operates. Effectively acquirers have to make credit risk decisions, reflected in the merchant's price, taking into account the riskiness of the sector that the merchant operates in.

This is illustrated by the severe effects of COVID on trading environments, causing a number of businesses to cease trading in sectors particularly impacted by the pandemic.

CONSULTATION QUESTIONS

Cardnet has provided direct responses to all of the PSR's questions. In accordance with the PSR's direction regarding answering these questions, a single response has been provided to questions 18-22 to ensure that Cardnet provides a thorough and comprehensive response to a critical aspect of this questionnaire.

QUESTIONS FOR STAKEHOLDERS ON SUMMARY BOXES

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

RESPONSE: Summary boxes may indeed improve a merchant's ability to search and switch between acquirers. This will primarily benefit lower card turnover merchants who have relatively simple requirements and where Cardnet could provide a fixed fee solution for card acceptance[redacted]

Cardnet also notes that there are a number of associated acquiring costs that could be summarised through summary boxes for all merchants which do not fluctuate (examples provided as per the response in Question 3) which are the same for every merchant. These costs though comprise a very small portion of the overall merchant's charges.

However, summary boxes outlining card acceptance pricing for larger turnover merchants (e.g. above £100k) can be very challenging due to the complexity and variability of scheme fees (set and charged by the card schemes). These include, but are not limited to, different rates depending on the card type (i.e. Domestic, Intra or Inter) and the method of processing the transaction (i.e. Face to Face (F2F), MOTO and Ecommerce). This is further complicated by the tendency for the card schemes to amend and introduce new fees which requires Cardnet to continually adjust its prices.

To put this into further context, Cardnet's merchant pricing for acquiring with turnover above £100k currently varies according to the card acceptance profile of a merchant. For example, an ecommerce merchant who accepts international cards will be charged a higher price than a merchant who takes mainly domestic cards F2F, even if they have the same turnover.

Summary boxes will also struggle to capture the varied approaches adopted by acquirers to pricing (e.g. per pence rate vs percentage, base rates + add on cost vs all-inclusive rates), which reflect commercial and competitive choices as to what works best for customers, in terms of clarity and an individual's acquirer's competitive and commercial response to the varied costs faced. Currently, Cardnet has three different pricing structures (Blended, Interchange Plus and Interchange Plus Plus) which are available to all merchants but that is not to say these are the only legitimate pricing approaches or that other acquirers would share the view that Cardnet's approach is the best commercially or the most attractive to merchants.

The bespoke and necessarily complicated nature of acquiring pricing makes 'generic' pricing summary boxes arguably of limited benefit to merchants and could even be potentially misleading. If acquirers are required to disclose pricing for a generic core offering, Cardnet would likely need to agree on a merchant acceptance profile which would need to encompass and be available to all merchants and indeed all variations of scheme fees. Therefore, this generic pricing would need to be heavily caveated in the spirit of price transparency.

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?

RESPONSE: Bespoke individual merchant summary boxes may be helpful to improve merchant engagement and Cardnet consider supportable, but generic summary boxes will be difficult to provide as set out in the response to Question 1.

Upon joining Cardnet, Cardnet clearly outlines and summarises what the merchant is entitled to, in Cardnet's Merchant Specific Conditions. The information provided in this document could be extracted and converted into a 'standardised' bespoke summary box for each merchant. In principle, a summary of merchant's 'high level' terms might be useful to have in a similar format so that merchants can compare between providers.

However, providing information on a card transactional basis in a bespoke summary box will be difficult due to varying fee costs from the card schemes, and variances between even similar merchants, as highlighted in the response to Question 1. Therefore, a summary of the merchant's terms and peripheral charges could be a more appropriate and workable solution.

It is also important to highlight that significant consideration would need to be given to agreeing the categories of bespoke merchant summary boxes. Some acquirers may offer very low 'headline rates' then apply significant additional fees which will make comparisons difficult if a merchant does not realise these extra fees are listed further down in the summary, or indeed upon commencement of their acquiring product. Bespoke summary boxes with only headline rates may also disadvantage acquirers who price at higher headline rates in the spirit of complete transparency to the merchant.

Furthermore, if all rates are included, merchants are likely to in many cases be overwhelmed or find it difficult to ascertain whether/how certain charges are applicable to their business. In essence, more information would not necessarily mean better informed merchants but conversely may lead merchants to be less confident and more confused when attempting to compare across the market.

It is also important to note that maintaining a comprehensive, up to date and accurate list of bespoke summary boxes could be extremely difficult to manage in a robust and contemporaneous fashion, due to the frequency of changes in card scheme fees and the impacts these changes have on a merchant acquirer's operations.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

RESPONSE: Effectively fixed fees would work in the context of a summary box as they do not fluctuate and they would enable a like-for-like comparison. In addition, headline rates for popular card types could also be provided.

The most amenable information in the context of summary boxes would be directly comparable charges, primarily non-card acceptance fees including, but not limited to, the following:

- Minimum monthly charge
- Pre-Auth
- Authorisation fee
- Purchase with Cashback fee
- Chargeback fee
- Refund fee
- PCI DSS costs including non-compliance charges.

As noted in the executive summary, work was previously undertaken by the Lending Standards Board regarding the introduction of summary boxes for credit cards and Cardnet would consider it appropriate to discuss any learnings taken from this exercise to ensure successful implementation in the card acquiring industry.

QUESTON 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

RESPONSE: Smaller merchants with fixed fee services and product(s) would benefit most from the implementation of summary boxes. As mentioned previously, this would generally encompass merchants with a card turnover of up to £100K. Further analysis would be required to see where this could be applied to those merchants with a card turnover more than £100K but Cardnet strongly suspect positive evidence supporting summary boxes for merchants with a card turnover of £1million plus will be lacking. Per our response to Question 1, [redacted]

It is also important to stress that, in addition to the consideration of a merchant's turnover, how the market in which that merchant operates also impacts on the category of merchant that would benefit most from summary boxes. Merchants operating in a 'traditional' F2F environment and accepting domestic cards would potentially benefit more from summary boxes as opposed to merchants, for example, operating in a card not present (CNP) environment where there is a propensity to accept international cards. Due to increased scheme costs, merchants operating with profiles outside the traditional F2F environment may not be eligible for the price outlined in the summary boxes, making this information misleading for the merchant.

QUESTIONS FOR STAKEHOLDERS ON STIMULATION OF DCTS IN THE CARD-ACQUIRING MARKET

Cardnet recognises that the PSR may commission a study to assess the feasibility of DCTs for card acquiring services. It is indeed a topic that requires careful scrutiny both in terms of whether this is an industry where DCTs can assist in achieving positive consumer outcomes and in terms of focussed regulatory oversight of DCT activity.

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

RESPONSE: Similar to the challenges outlined in relation to summary boxes, DCTs may assist merchants that have a lower card turnover combined with a simple card acceptance solution, such as a mobile point of sale (MPOS) device. With this in mind, and as previously stated, it has been possible for Cardnet to introduce a fixed fee solution for its MPOS merchants, defined as those merchants with a card turnover of up to £100k. It is less apparent that a fixed fee or simplified pricing solution can work for merchants with a higher turnover [redacted] and thus less apparent that DCTs would effectively support merchant switching.

For higher card turnover (£1m plus) merchants, where fixed/simplified pricing is not appropriate, it is not cogent to assume/expect DCTs can constructively assist merchants with switching. This is due to the complexity of the pricing and the consequential difficulty in presenting comparative information in a meaningful and accurate way to merchants. It is also important to stress that pricing here is necessarily based on proprietary pricing models and the application of these and the pricing produced as a result is a parameter of competition between acquirers. Regulatory intervention to drive perceived pricing transparency runs the real risk of not just confusing merchants but of distorting competition and may lead to the unintended consequence of stagnating price competition and innovative pricing propositions.

Nevertheless, DCTs may be useful for those merchants that can accurately and genuinely forecast their card acceptance profile (e.g. turnover, ATV, card mix, CNP vs CP, international vs domestic spend, etc) and assuming, which may not always be possible and needs to be verified, DCTs are able to present these parameters in a clear and understandable format. However, in Cardnet's experience, many smaller merchants will not be able to forecast in this way and therefore looking to gauge acquiring pricing this way using a DCT could be either overwhelming for them or result in inaccurate pricing, causing a need to quickly reprice these merchants after onboarding.

In summary, whilst Cardnet wholeheartedly supports pricing transparency that could help to drive competition and merchant choice, Cardnet does not believe that DCTs provide a viable mechanism for all merchants in the acquiring market.

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

RESPONSE: In summary, the main obstacles are as follows:
- Complexity of the merchant acquiring industry's pricing structure, driven in part by the numerous scheme fees that exist.
- The constant changing of those same scheme fees, which invariably increase when they do change and therefore need to be passed on to the merchant.
- The merchants understanding of the plethora of variants regarding their card processing environment and how this impacts their fees e.g. Domestic, International, CNP etc.
- Proprietary pricing models applied by acquirers which make simple price comparisons inappropriate.

- Credit risk assessments having to be reflected in the merchant's price, taking into account the sector that the merchant operates in.

QUESTION 7: What information do you think should be provided to merchants by DCTs?

RESPONSE: DCTs should ideally provide transactional pricing for card acceptance though, as mentioned above, this is challenging particularly for merchants with a higher card turnover.

DCTs should also provide any other costs associated with the merchant acquiring product such as PCI fees, minimum monthly charges etc.

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

RESPONSE: As previously highlighted, the complex nature of the card acquiring industry's pricing structure means that the simple provision of pricing comparison via a DCT is difficult to supply for all merchants. Indeed, even targeting a cohort of merchants with a relatively small card turnover could be problematic as the merchant's trading profile can still skew potential transaction fees.

Regarding pricing decisions, it is also important to note that merchants should not just consider simple high-level rates. There are other associated costs, for example those merchants with payment gateways and integrated systems, that must also be considered as these will invariably incur a series of costs to move provider that cannot be displayed via a DCT. Costs of this nature are less prevalent for merchants with a smaller card turnover which provides further rationale as to why Cardnet believes the PSR's recommended card turnover of merchants with a turnover of up to £50m, for their proposed remedies, is far too high.

Nevertheless, if a series of regulated and clear conditions/parameters are devised regarding what constitutes a price, with the price explicitly caveated to take into account all the considerations highlighted thus far in the above responses, this could potentially make the introduction of DCTs more viable.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

RESPONSE: Given the increased sensitivity regarding sharing data of any nature driven by, amongst other reasons, instances of fraud, Cardnet suspects that merchants may be reluctant to share transactional data unless there is a clear, legitimate reason for doing so. With this in mind, Cardnet suspects that for merchants to be comfortable in sharing their transactional data on a DCT, the digital site would need to make it clear the need and rationale for sharing transactional data. Effectively, DCTs will need to have best in class IT security and robust confidentiality provisions.

Arguably, the reluctance to share transactional data would increase for merchants with a greater card turnover given the fact that there would be a richer data set being shared. Cardnet would suggest this is yet another reason to target the proposed PSR's remedies at merchants with a turnover of, at the very maximum, £1m, but potentially much less than this.

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

RESPONSE: DCTs would be new to the acquiring sector, so ensuring that DCTs are simple in design, yet provide robust and most importantly meaningful and helpful outputs, would be important in developing merchants' confidence in DCTs. Therefore, providing clear guidelines regarding how prices have been calculated and identifying any restrictions and caveats regarding the comparison prices would need to be made clear, factoring in the complexities highlighted in the previous responses.

Effectively, and in line with the responses provided throughout this document, merchants with a lower card turnover (below £100k) would arguably have the most confidence in DCTs.

Merchants would also need to be supplied with relevant information regarding the entities who own the DCTs, including how the data will be used. As with any of these initiatives within financial services, Cardnet nevertheless suspect there will always be a cohort of merchants that will remain less confident, due to potential fraud and confidentiality concerns, in putting information into third party comparison sites.

Taking into account the above, Cardnet assumes that the development and ongoing management of a new DCT would be undertaken by a third party with relevant experience and expertise in managing DCTs.

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

RESPONSE: As previously highlighted and discussed, and in summary, Cardnet believes that merchants with a low annual card turnover (primarily below £100K but potentially up to £1m assuming a move by industry to adopt simplified pricing for this merchant segment) would provide maximum benefit from any introduction of DCTs. In addition to those merchants with a low card turnover, merchants operating in a simple F2F trading environment would benefit most from a DCT.

QUESTIONS FOR STAKEHOLDERS ON CONTRACT TRIGGER MESSAGES

QUESTION 12: Do you agree that provision of information by providers of card acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

RESPONSE: Cardnet's standard acquiring contract [redacted]

Retention for Cardnet is extremely important and is driving engagement with merchants. [redacted]

A further review is undertaken in [redacted]

In summary, Cardnet does believe that merchant prompts would improve merchant engagement.

QUESTION 13: Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

RESPONSE: As per Cardnet's response to the PSR's Review, proposing a fixed-term contract as a potential remedy, in its literal sense, would mean ceasing a merchant's acquiring service because the merchant has not renewed their current contract or switched to another provider. This would be detrimental to the merchant and cause them to lose trade and income by having their acquiring service terminated.

Therefore, Cardnet fully agrees that the PSR should concentrate its investigation on information trigger remedies as opposed to the introduction of fixed-term contracts.

QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

RESPONSE: Cardnet currently delivers trigger messages [redacted] with further reviews being considered on [redacted] thereafter. Cardnet does its upmost to tie these review dates in with the merchant's respective terminal contract end date as this gives Cardnet greater scope to explore other needs the merchant may have.

Cardnet has found that [redacted] contacted engage with the business's Loyalty & Retention team [redacted] Following these communications, Cardnet

[redacted]

has found that merchants are generally satisfied with their current products, services, and pricing. Merchants are however appreciative of the contact, even though it is fairly early in the relationship and some of these merchants may have only just begun trading with Cardnet.

In summary Cardnet believes that regular communications to merchants improves engagement and therefore trigger messages regarding the end of their contract term is valuable. Regarding timings, at the very least an annual trigger message would appear appropriate, but more merchant insight will need to be gathered to ascertain the most appropriate timings for trigger messages.

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful: (what categories are we referring to)

RESPONSE: The following summarises the content Cardnet believe could be considered for prompt messages:

- The message should be concise and clear, confirming why the merchant is being contacted and highlighting any call to action.
- Merchants would benefit from being given a call to action to discuss additional needs.
- Providing merchants with the previous 12 months transactional data so they can review their trading environment which may help them forecast future card acceptance trends.

The following summarises the content Cardnet believe should not be considered for prompt messages:

- Cardnet does not believe that showing how much the merchant paid for their card-acquiring services in the previous 12 months is relevant, as costs fluctuate significantly based on transactions and processing methods with historical costs being unlikely to be the same as future costs.
- Providing information on the amount that the merchant could save by switching to the lowest-priced option would be difficult as all merchants are priced on a bespoke and individually calculated basis.

QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

RESPONSE: As Cardnet outlined above, Cardnet currently provides trigger messages to merchants [redacted]

That being said, based on high level learnings to date, Cardnet believes the best method of delivering trigger messages to merchants would be as follows:

- Emails and statement messages, particularly with smaller turnover merchants with follow up calls where appropriate.
- For those merchants with Relationship Managers (those with higher turnover), who have regular touch points (at least two per year), those touch points would be an ideal time to deliver a trigger message.
- Messages on merchant MI Systems provided by the respective merchant acquirer.

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

RESPONSE: As per the previous response, Cardnet's insight on the effectiveness of trigger messages is still developing. Based on high level learnings to date, we believe that the following merchants would most likely benefit from trigger messages.

- All merchants, non-managed, through a central trigger programme (effectively, this is all merchants with a relatively low card turnover that therefore do not have a Relationship Manager).
- All relationship-managed merchants via regular Account Reviews.

QUESTIONS ON POS TERMINALS AND POS TERMINAL LEASE CONTRACTS

In the context of the following questions regarding POS terminals and terminal lease contracts, and as highlighted in Cardnet's response to the PSR's original Review, Cardnet does not contract directly with merchants regarding the provision of terminals. Instead, Cardnet refers merchants to companies providing these services with whom Cardnet partner, namely [redacted]

Please note, Cardnet has commenced a pilot offering MPOS devices to its merchants for a nominal fee with a PAYG fixed price tariff. Cardnet directly supplies and manages these MPOS devices.

Regarding the responses to the following questions, and as discussed in the opening section of this document, a general/holistic response has been provided to cover questions 18-22.

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

SEE BELOW

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible and explain your response. What other technical remedies are available to address the feature of concern?

SEE BELOW

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

SEE BELOW

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

SEE BELOW

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

RESPONSE TO QUESTIONS 18-22

Cardnet would first like to make the following key observations:

- Cardnet, common with the industry, already has commercial policies in place to assist with switching, [redacted]
- POS portability will not offer a quick or cost-effective solution to the PSR's concerns due to the technical challenges in implementing portability, not least in the face of security concerns portability would entail, as well as the continued need for commercial arrangements to be in place between a merchant and an acquirer/supplier on support, helpdesk, warranty, and general management.
- Indeed, Cardnet would go so far as to say that the operational, compliance and security complications of moving one terminal to another acquirer is simply too complex and realistically unmanageable to be an effective and proportionate remedy.
- Finally, the market is already organically developing alternatives to standalone, leased terminals facilitating switching. Environmental responsibilities, competition and innovation provide merchants with an ever-increasing range of competitively priced options, such as simple, low cost or PAYG solutions for merchants with a lower card turnover with larger merchant needs being met by gateways providing hardware and software solutions.

Cardnet note the PSR's comment that one of the reasons that could prevent or discourage merchants from searching and switching provider of card-acquiring services is the potential to incur significant early termination fees when cancelling an existing POS terminal contract, even if no such fee would apply when cancelling the main card acquiring services contract.

On this we would stress that Cardnet has policies in place to help merchants switch to Cardnet, [redacted] as appropriate, with their current acquirer and POS provider. Indeed, driven by competition on the market, it is common practice for acquirers to cover cancellation and switcher fees. Accordingly, addressing POS terminal portability is unlikely to significantly improve merchant switching over and above this industry practice, and is likely to present downstream impacts which could negatively affect merchants as further explained in the following sections.

POS Portability

Cardnet understand that POS portability is possible from a technical perspective, though the process is not necessarily straightforward, and it raises serious and significant questions around security and merchant support. Technological developments and adjustments to enable such an initiative would also come at significant costs to acquirers, which is likely to push up prices across the industry.

Keys

Cardnet's view on solutions would be that POS devices which utilise cryptographic keys to ensure data is secure usually take the form of BDKs (Base Derivation Keys) or MAC (Message Authentication Code) Keys.

BDKs are specific to each acquirer, and the key injection ceremony is usually performed by a logistics house. In order for a terminal to be ported to an acquirer in this scenario, the POS would need to be sent to the logistics house for a factory reset and to be injected with the new keys.

If the terminal is authenticated with MAC Keys, then the original acquirer would need to remove the MAC key on their host, and the new acquirer the device is being ported to, would need to assign a new MAC key.

Payment Application

In order for a POS device to process transactions with an acquirer, the acquirer needs to undertake acquirer and scheme testing to accredit the device and the specific payment application and its kernels to the acquirer's platform. Accrediting new solutions incurs costs and takes time. For Cardnet, [redacted]

Often acquirers will utilise a specific payment application and specific kernels. For a merchant to port their POS from one acquirer to another, even if the model is the same, the payment application and kernels could be different, which would require acquirer and scheme testing to accredit the solution.

Terminal Management System (TMS)

The Terminal Management System is the tool used by acquirers and POS providers to support and manage terminal estates e.g. configuring settings, troubleshooting issues, rolling out software updates etc. There are multiple TMS' on the market, and the same hardware model can be supported by different TMS tools. For example, [redacted]
This would cause an interoperability issue and reconfiguring the merchant's existing device would also need to consider the TMS.

Support

The terminal providers are responsible for the upkeep and ongoing management of the terminal estate. This activity includes, but is not limited to, supporting merchant configuration requests, providing technical support (via the TMS), arranging device swap outs should faults occur, rolling out software updates and maintaining compliance across the estate.

Nonetheless, even though Cardnet provide its terminals via third parties who contract directly with the merchant, Cardnet is still ultimately accountable under Scheme rules for its terminal estate, including through the imposition of penalties and therefore has an ongoing interest in ensuring its supply partners offer a robust product and service.

To provide this support, acquirers and POS providers enter into commercial and operational agreements with the terminal manufacturers, to ensure the POS devices are kept within warranty, that technical support is available and that the TMS is accessible to manage the estate.

The terminal lease contracts that Cardnet merchants enter into cover the cost of the POS device, as well as the costs associated with providing a helpdesk and technical support, managing the TMS and the cost of the device's warranty.

If a merchant wanted to bring their own POS device, assuming any costs, timelines or issues around Keys, Payment Application, Accreditation and TMS interoperability were covered, Cardnet's leasing partners would still look to contract with the merchant, as the services of support, helpdesk, warranty, and general management would need to be covered.

Consequently, it appears cleaner, quicker, and simpler for the new acquirer, or the terminal lease provider, to issue the merchant with a new device and the acquirer to cover/contribute to any cancellation fees as appropriate.

Cardnet would be keen to understand whether there would be any limitations or criteria to POS portability, as the potentially infinite number of hardware and software combinations could snowball and incur significant costs and time delays, as well as impact the service merchants receive and the ability for Cardnet to meet its obligations around compliance and security.

To effectively manage the POS estate and ensure merchants receive a good service with minimal disruption, acquirers carefully choose the products, systems and parties that form the value chain. If Cardnet is mandated to accept any POS device when a merchant switches, this would result in a fragmented estate and a potentially infinite number of hardware and software combinations, which Cardnet as the acquirer would be required to manage, causing significant detriment to Cardnet, its partners and ultimately merchants.

Considerable cost, time and resource would be incurred to:
- Accredit and test each solution as it is presented by switching merchants.
- Implement contracts to cover commercial and operational models with the new POS vendor for support, warranty, TMS etc.
- Implement helpdesk and technical support that can cater to every hardware and software combination.
- Manage software updates across multiple vendors, models, and software versions.
- Manage estate compliance, whether that be regulator or scheme driven, or PCI council rules around expiration and sunset dates.

Overall, the operational, compliance and security complications of moving one terminal to another acquirer is simply too complex and realistically unmanageable. It is not simply a case of switching host end points, there are many other implications that need to be seriously discussed.

Trust in the ecosystem is paramount and enforcing POS portability could jeopardise effective risk management of POS estates, whilst incurring significant costs which would need to be recouped, and acquirers may decide that the costs and risks to port a merchant over outweigh the commercial benefit of winning the acquiring business, which would ultimately detriment a merchant's ability to switch acquirers.

Reform of Leases and the Future

Cardnet does not think that regulatory reform of leasing is required. We feel that environmental factors and the competitive nature of the market has led organically to significant change of the landscape in recent years, and will continue to do so, giving merchants a wide range of competitively priced options and enabling easier switching.

PAYG solutions such as MPOS and low cost terminals have grown rapidly in recent years, as cash continues to decline, and smaller merchants feel the need to accept card payments. These solutions involve small, one-off payments for the hardware (typically between £20 and £200) and usually involve PAYG fixed acquiring rates (as previously outlined); providing merchants with a simple and clear offering and making it easy to compare and switch providers.

Larger merchants are increasingly looking to capitalise on the shift from cash to card, by implementing more complex, gateway-oriented solutions, providing additional functionality and greater insights into their customers. For these solutions, the merchant usually contracts with the gateway provider who supplies both software and hardware (POS devices).

Over the next 5 years, Cardnet expects this trend to continue with many merchant needs being met with simple, low cost or PAYG solutions for merchants with a lower card turnover, and larger merchant needs being met by gateways providing hardware and software solutions. Cardnet also expects that software-only solutions will become increasingly popular, with merchant needs being met with Apps, Soft POS, Pay by Link, QR Codes and Virtual Terminals, bypassing the need for hardware and associated contracts and therefore bypassing the feature of concern. Furthermore, recent announcements by Apple will likely lead to further innovation and remove legacy barriers to taking card payments.

Consequently, Cardnet expect that the middle ground of standalone, leased terminals will continue to shrink. To support this middle ground, the market is already starting to implement shorter and more flexible contracts, and Cardnet, working closely with its leasing partners, is [redacted]. This will ensure merchants have choice and can select a product and contract term that best meets their needs and priorities, whilst making it easier for merchants to switch provider.

For merchants who need sophisticated payment acceptance but aren't ready to commit to a complex and potentially expensive gateway solution, Cardnet will continue to meet needs and provide merchants with choice, whether they are looking to maximise flexibility through a rolling contract or leverage lower monthly costs by committing to a longer-term contract.

MONITORING OUTCOMES AND EFFECTIVENESS OF REMEDIES IN THE CARD-ACQUIRING MARKET

QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

RESPONSE: Cardnet currently uses a series of metrics to establish and monitor merchant satisfaction and usage of its products and ancillary services. Such metrics include a net promoter score and a merchant satisfaction score along with qualitative feedback garnered from the merchant where appropriate. Cardnet uses an external market research company to gather these findings, which are conducted via a series of merchant interviews on a regular basis. Cardnet would envisage similar metrics and methodology deployed by the PSR when assessing the effectiveness of the remedies.

APPROACH TO THE CBA (Cost Benefit Analysis) FOR REMEDIES

QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

ADDRESSED AS PART OF CARDNET'S RESPONSE TO THE PSR'S SECTION 81 NOTICE.

QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

ADDRESSED AS PART OF CARDNET'S RESPONSE TO THE PSR'S SECTION 81 NOTICE.

QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

ADDRESSED AS PART OF CARDNET'S RESPONSE TO THE PSR'S SECTION 81 NOTICE.

Appendix 1

[redacted]

NatWest

13 April 2022

CP22/1

Market review into card-acquiring services

Consultation on remedies

NatWest Group response –

[redacted]

<u>NatWest Group response to the PSR's consultation on remedies in the card acquiring market</u>

NatWest Group (NWG) operates a card acquiring business in the UK under its Tyl by NatWest brand, set up in 2018. [redacted] Tyl's aim is to be a flexible, customer-friendly payments provider, allowing small businesses to accept card payments with minimum complexity for them and their customers.

Executive summary

Tyl welcomes the opportunity to respond to the PSR's consultation on remedies.

As a relatively small challenger in the card acquiring market, Tyl is looking to expand its market share, [redacted] Tyl strongly supports the PSR's objectives of (i) encouraging merchants to search and switch to the provider which best suits their needs; and (ii) reducing the obstacles merchants may face in securing a better deal. Tyl agrees that the pursuit of these objectives should incentivise suppliers of card-acquiring services to develop and offer better deals for merchants, as merchants become more engaged in the process of assessing their options.

At present, Tyl faces obstacles to the acquisition of new customers in two specific areas that align with the PSR's findings.

First, Tyl faces challenges in facilitating price comparisons between Tyl's customer proposition and a merchant's existing provider's customer proposition [redacted] In principle, both summary boxes and a digital comparison tool (DCT) should significantly expand Tyl's ability to provide timely, efficient and meaningful price comparisons. However, there are a number of challenges around DCTs that would need to be overcome, and Tyl sets out some of these below. Tyl would welcome the PSR undertaking further work on the feasibility of DCTs.

The second significant challenge Tyl faces relates to POS terminal lease contracts. The PSR has suggested that there are two factors related to POS terminals that discourage switching: first, merchants cannot use their existing POS terminals with a new card-acquirer and, secondly, POS terminals can have lengthy contract terms and high early termination charges that discourage switching.

While Tyl agrees with the PSR's finding that merchants cannot carry across their existing POS terminals when they switch provider, Tyl does not believe that enforcing portability between POS terminals would be an effective or practical remedy. As explained in more detail below, Tyl believes this would be technically extremely challenging and costly and would also dampen incentives for acquirers and payment providers to innovate. POS terminals are very different from other types of electronic devices, such as mobile phones which have been subject to regulatory intervention and standardisation to ensure portability between different carriers. A remedy that seeks more directly to address the second concern around lengthy POS terminal lease contracts and high early termination charges should achieve significant competitive benefits, without significant technical challenges or risks of unintended consequences such as the dampening of incentives to innovate.

Tyl has focused in this response on the remedies relating to summary boxes, DCTs and POS terminals and has reproduced the relevant questions below for ease of reference.

<u>Summary boxes – general comments</u>

Tyl agrees in principle with the PSR that summary boxes could facilitate easier comparisons for merchants between acquirers. Having had the opportunity to review the PSR's current proposals for summary boxes on the call on 22 March 2022, Tyl has set out four potential challenges relating to summary boxes and some potential solutions to these:

1. Displaying only four card types

Not all businesses will have the same 'top four' common card types. For instance, merchants that predominately take payments from other businesses ('B2B') may have Business Debit, Corporate, Purchasing and Fleet cards in their top four, while business that take payments mainly from consumers ('B2C') may have Personal Debit, Personal Credit, Business Debit and Business Credit in their top four.

Choosing to concentrate on four card types could have the unintended consequence of creating a two-tier market in which acquirers quote artificially low rates for the card types they know will be most visible to merchants via the summary box, whilst increasing their rates on card types that are not included. This could result in the unwary merchant - particularly a merchant who takes a large proportion of payments in one of the less common card types (such as a steel manufacturer that sells to building firms, for example, whose card mix will be made up primarily of business debit cards) - receiving a more costly deal having relied on the information in the summary box to make their decision between acquirers.

A potential solution to these concerns would be to give merchants a clearer view of what they are being charged by making the choice of which rates to display in the summary box dynamic – i.e. driven by the individual merchant's card payment history. Alternatively, the number of card types could be increased to, for example, seven in order to be more comprehensive: 1) Personal Debit, 2) Personal Credit, 3) Business Debit, 4) Business Credit, 5) Corporate, 6) Purchasing and 7) Fleet.

2. *Ensuring adequate prominence of additional charges ('surcharges')*

The content and formatting of summary boxes would need to ensure that extra charges ('surcharges') are given adequate prominence. Many providers impose surcharges for 'card not present' transactions, European and international transactions, and premium card transactions. These surcharges can make a significant difference to the final cost to the merchant and, if they are not displayed with sufficient prominence in the summary boxes, providers may be incentivised to increase them on the basis that merchants may make their switching decisions based purely on the headline rates that are included.

A potential solution to this is either to include the surcharges linked to specific card transactions in the headline prices quoted in the summary box or to include the surcharges separately in a prominent position in the summary box (as was mentioned by the PSR on the 22 March call).

3. Inclusion of refund charges

Refund fees are typically charged to the merchant by the provider on a 'per transaction' basis and can form a material part of a merchant's costs, particularly for merchants such as online clothing retailers that are obliged to process and refund large volumes of customer returns. Excluding these charges from the summary box would potentially create a misleading impression for merchants and again create an incentive for acquirers to increase them.

A potential solution to this would be to ensure that refund charges are displayed prominently in a box detailing surcharges.

4. Displaying 'other charges' information at a sufficiently granular level

Here are two examples where more granularity would help merchants better understand their charges:

POS terminal charges: POS terminals can be broadly categorised according to their type of connectivity, and these distinctions drive significant price variation, so it would be helpful for merchants to understand into which category their POS terminal falls. Some possible generic POS terminal categories could include:

1) "Card Readers" which need to be connected to a smart phone or tablet to work;
2) "Desktop" or "Countertop" machines which typically sit next to a till and are plugged into a phone line or ethernet cable;
3) "Portable" machines that merchants can carry around their premises and connect via WiFi or Bluetooth;
4) "Mobile" machines that merchants can take outside their premises and connect via a mobile network (and so need a SIM card); and
5) "Dual connectivity" machines which offer a choice of WiFi or mobile network connectivity.

PCI charges: Acquirers typically charge merchants a monthly fee for access to a product that allows them to check whether they are PCI compliant. This will involve the merchant completing a self-assessment questionnaire and carrying out a vulnerability scan of their business. Some acquirers, however, may also charge a non-compliance fee if merchants fail to complete their PCI compliance checks. This fee can be significantly higher than the monthly fee, and so should be displayed in a separate category to avoid merchants confusing the two.

Summary box questions

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Yes. As noted above, [redacted] There is currently no easy method for merchants quickly and easily to compare prices themselves and summary boxes would, if they include all the necessary information, facilitate this and provide greater transparency.

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

Yes, subject to the considerations outlined above.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

As noted above, it is important that the card types included in the summary boxes are representative for the merchant, whether that is achieved by making them dynamic or by including a larger number of them on a generic basis. It is also important to ensure that any additional fees are included to ensure that, should a merchant base its switching decision exclusively on the information contained in the summary box, it will not be vulnerable to hidden charges.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response

In Tyl's experience, it is smaller merchants (with card turnover not exceeding £25 million) that are often unable to dedicate specialist time and effort to compare merchant acquiring options at a granular level. As the PSR has noted, the card acquiring market is functioning better for larger merchants than smaller ones and, accordingly, it is smaller merchants that would benefit most from an effectively implemented summary box remedy.

<u>DCTs – general comments</u>

NWG is supportive of the principle of the development of DCTs for merchant acquiring services. That said, Tyl would encourage the PSR to consider delaying implementing the use of DCT until after the implementation and trialling of the prescribed Summary Boxes and trigger message remedies for the reasons set out below. As with the PSR's proposals for POS terminal portability, NWG considers that the same objectives could be achieved more quickly and efficiently by means other than DCTs at least in the short to medium term. These could include measures such as the summary boxes and trigger messaging also being advocated by the PSR, both of which would improve transparency in the market and encourage merchants to shop around, to consider their options and to switch.

[redacted] There are, however, some particular challenges to this presented by the nature of the card acquiring market:

a) The heterogeneous pricing models employed across the merchant acquiring market make direct comparison relatively complicated compared to other markets. A prime example of this is that, as some acquirers charge individualised fees for each transaction type whereas others employ blended pricing, the relative value for money of each will depend on the blend of transaction types utilised by each merchant. For a DCT to be useful, therefore, it would need to allow for a merchant's transaction history to be uploaded to allow a meaningful comparison to be made between individualised and blended pricing. This would require a significant investment of time by the merchant as well as a high degree of confidence that the information was to be held and processed in a secure manner. A similar issue with data and the requirement for customers to upload it manually resulted in the failure of Midata (now superseded by Open Banking) due to low customer take-up. As the CMA noted in its DCT market study, DCTs work best where they offer a very easy consumer experience, which they can only do where the price of the product is driven by a small number of variables. This is not the case with card acquiring, which is a more complex product with multiple options for additional services and third-party integrations.
b) There is now a broad ecosystem of additional services that merchant acquirers offer alongside their core payment architecture, such as integration with POS systems, inventory management, accounting solutions and e-commerce as well as features such as dynamic currency conversion and point-to-point encryption. In order to present a clear picture of relative value for money, any DCT would need to factor in these elements and further clarity would be needed to assess the extent to which the relative value of the additional services varies according to the nature of each merchant's business. These difficulties point to a broader concern Tyl has, namely that the adoption of DCTs could lead to the commoditisation of the merchant acquiring market and a consequent reduction in innovation and choice for merchants in terms of the availability of additional services and the more qualitative aspects of competition that cannot be captured by DCTs.

DCT questions

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

As noted in more detail above, DCTs have the potential to help merchants search and switch, but there is significant work required to develop a basis for comparison that is comprehensive and meaningful for a wide range of different merchants requiring a range of different services. There is also a risk that a focus on comparison of a narrow range of services could lead to a commoditisation of the market and stifle innovation across the broader range of additional services. As such, Tyl's view is that DCTs are a longer-term solution, whereas other more direct remedies to address the PSR's feature of concern relating to POS terminal contracts could be more easily implemented in the shorter term.

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

As noted above, Tyl sees the principal obstacles as (i) heterogeneous and in some cases complex pricing structures would make the customer experience of comparing different provider offerings difficult; and (ii) complexity of including in any comparison the broad ecosystem of additional services available to (and valued by) merchants. Although there may be ways to condense the information most merchants value into a digestible form through a DCT, the same objective could potentially be achieved through the summary box and trigger message remedies that would be quicker and easier to implement.

QUESTION 7: What information do you think should be provided to merchants by DCTs?

Given the complexities of differing pricing structures and additional services offered by different acquirers, it would be a difficult exercise to arrive at a common set of data / results that would be equally valuable to all merchants. Tyl has expanded more generally on its view of DCTs in the summary section above.

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

Tyl's view is that this would only occur to a limited extent. As noted above, quantitative metrics such as pricing, settlement time, terminal lease length, etc. that lend themselves to comparison through DCTs are only part of the picture for merchants. The dynamics of competition in the merchant acquiring market are broader than this, given that merchants also choose their acquirer based on the availability of additional services, third-party integration, service quality and other factors, meaning that a narrower set of information delivered via a DCT may provide only a partial picture and therefore be of limited use to merchants.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Currently, merchants that enquire seriously about switching their acquirer are already willing to share their transaction data by providing their transaction history to the prospective alternative acquirer. Potential concerns around the sharing of commercially sensitive transaction data can typically be addressed through confidentiality agreements/NDAs between the parties. In Tyl's experience, if a merchant declines to share this information with us, it is usually because they find retrieving their statement difficult or are just 'testing the market' to see what else is available. As a result, Tyl would not anticipate reluctance to share transaction history among merchants that are serious about switching.

Barriers to this being a successful experience for the merchant include the complexity of retrieving and sharing the transaction history and, relatedly, challenges in retrieving sufficient data to provide a meaningful quotation that represents a merchant's likely spend with the new acquirer.

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

In Tyl's view, it would be very challenging to deliver results via a DCT that would be equally valuable to all merchants irrespective of their widely varying business models. Accordingly, there is potential for merchants to be misled by DCT results that do not accurately reflect what represents value for money for them, particularly given that, based on Tyl's experience, smaller merchants would not have sufficient time to delve into the detail that would sit behind the headline DCT results. Accordingly, there is the risk that, if a DCT were introduced that did not take full account of these issues, merchant trust could be undermined.

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

As noted above in response to Question 4 on summary boxes, in Tyl's experience it is smaller merchants (with card turnover not exceeding £25 million) that are often unable to dedicate specialist time and effort to comparing merchant acquiring options at a granular level. Accordingly, it is these merchants that would benefit most from DCTs and particularly those for whom surcharges make up a significant proportion of their total spend.

POS terminal portability – general comments

Although Tyl agrees with the PSR's conclusion that certain POS Terminal contracts prevent or discourage merchants from searching and switching, Tyl is concerned that seeking to address this through a technical remedy (such as POS terminal portability) is the wrong approach. Whilst in theory POS terminal portability could facilitate easier switching between card acquiring services for merchants, the market has a number of unique features that, in Tyl's view, would make this remedy impractical to implement and less effective at securing the desired outcomes than the available alternatives. Specifically:

a) *Additional services* – In order to make POS terminals fully interoperable between card acquirers, it would be necessary to standardise not only the core payments architecture and the devices but potentially also the various additional services that are provided such as dynamic currency conversion, point-to-point encryption, inventory management and app functionality (for SmartPOS). These vary by merchant acquirer, allowing merchants to choose not only on the basis of price but also according to the set of features best suited to them. The standardisation of these services would not only create a significant technical and cost-related challenge to the industry to implement but may also have the unintended effect of hampering innovation in the market for those additional services. Any new services or features rolled out to a merchant acquirer's POS terminals would either have to be switched off or be migrated across to a new merchant acquirer if the merchant switched and chose to retain their POS terminal. There is a risk that this has further unintended effects that the incentive to innovate would effectively be removed by the obligation to make such new services or features available to competing merchant acquirers through the switching process. This feature of the market distinguishes it from telecoms, for example, where phone handsets and the phone service offered by the network operator are disaggregated. In telecoms, the customer selects a network operator and then makes a separate decision about which handset to purchase, whereas in merchant acquiring the differing functionality offered by the terminals supplied by a particular acquirer can be a significant factor in the merchant's decision as to which acquirer to use. Conversely, if POS terminal portability were imposed without a requirement to standardise additional services, the increasing reliance placed on these services particularly by merchants serving their customers through multiple channels would act as a barrier to switching.
b) *Integration with terminal provider APIs* – Integration of POS terminals into third party software that merchants use to run their business is typically achieved through an API loaded onto the specific POS terminal rather than at acquirer level. Requiring terminal portability would result in layers of complexity and additional costs to merchants choosing to switch to a different acquirer if they have third party POS integration with the incumbent acquirer, as they would need to download and test a new integration with their new POS provider's API.
c) *POS terminal certification* – Current card scheme rules stipulate that, for security reasons, merchant acquirers are required to certify each POS terminal type (specifically, the device's EMV kernel) they use with or on behalf of the card scheme. This is already a significant cost burden on merchant acquirers.

POS portability would dramatically increase these costs, which would need to be passed on to merchants, as every acquirer and terminal provider would either effectively need to certify every POS terminal type in use in the wider market, including legacy devices, with every scheme or make a decision not to support certain customers using certain terminals, thereby making switching confusing for merchants.

d) *POS terminal software* – POS terminal software is generally acquirer-specific (even on the most common terminal types) and varies a great deal in terms of features and capability. For example, a terminal software application that offers only basic payment functionality is very different in terms of size and complexity from the software needed to support point-to-point encryption, dynamic currency conversion and other additional services. As different acquirers offer software with different capabilities, POS terminal portability introduces a risk that a merchant might decide to switch and retain their terminal, only to find that their new acquirer's software does not offer the functionality they had with their old acquirer. This is linked to the subsequent point on POS terminal hardware.

e) *POS terminal hardware* – Currently, POS terminal hardware is delivered to merchants in either generic or provider-specific form. Generic terminals, such as Ingenico, Verifone and PAX, are deployed by multiple merchant acquirers and terminal providers according to different levels of specification depending on the amount of memory required for the software each acquirer wishes to run on the terminal, as some software is more demanding of memory than other software. This variation in the specification of generic POS terminals means that, if the merchant switched acquirers and wished to retain their terminal, they might find that their terminal was incapable of supporting their new acquirer's software.

As the PSR has pointed out, the current widespread market practice is for certain card acquirers and terminal providers to provide POS terminals on a lease of 3 - 5 years in duration, which acts as a barrier to switching for merchants. Although POS terminal portability could require that model to be revised to maintain terminal providers' revenue streams and potentially lower that barrier in the process, Tyl considers that there are simpler and more direct methods of achieving the same objective. Although Tyl understands the PSR is initially considering remedies that address technical barriers to switching in preference to direct contractual remedies, given the complexities outlined above it may be more efficient simply to introduce additional flexibility into merchants' terms and conditions and improve price transparency and flexibility in terms of how merchants pay for POS terminals. This could include, for example, a maximum POS terminal lease term of two years, similar to the maximum length stipulated by Ofcom for mobile phone contracts.

POS terminal portability questions

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

As noted above, Tyl has several concerns about the proposed remedy relating to POS terminal portability. In respect of POS terminal replacement, it is unclear how this would in itself facilitate switching. Merchants whose terminal leases have expired are free to switch in any event and are not obliged to do anything with their old terminal, whilst those whose leases have not expired are unable to switch. Were terminal providers to be obliged to take back terminals before the expiry of their leases, they would likely impose a penalty charge which again would deter merchants from switching. Ultimately, therefore, the barrier to switching lies not in any technical remedy but in the contractual terms to which merchants are subject.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

As noted in detail above, there are a number of significant technical challenges that would need to be overcome to implement POS terminal portability. These challenges, coupled with the availability of more appropriate contractual remedies, mean that Tyl is not supportive of the introduction of POS terminal portability. Furthermore, Tyl is not aware of any other technical remedy (including terminal replacement) that would address the PSR's features of concern.

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Tyl agrees with the PSR's finding that the length of POS terminal contracts is a barrier to switching, and has been a significant barrier to newer, smaller acquirers gaining market share from incumbents. Furthermore, Tyl considers that a direct remedy to regulate these contracts would be more efficient and effective than a technical remedy such as POS terminal portability, which would be highly complex and less effective at securing the same objective. Tyl therefore welcomes the direct reform proposals being brought forward to address POS terminal contracts that act as a barrier to switching.

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

The development of technology platforms, POS terminal hardware and software and the acquiring industry in general will allow the industry to expand the delivery of much more than simply basic payment functionality to merchants. A good example of this is smart POS, which provides merchants with software (sometimes via an app store) that, as well as processing payments, takes orders and sends them to elsewhere in the business (e.g. a kitchen) and provides customer loyalty programmes.

Although in Tyl's view these developments are to be welcomed, they are likely to result in more complexity for merchants to navigate, particularly in relation to the pricing of this wide range of additional services, which is one reason Tyl is supportive of remedies such as summary boxes that would alleviate this.

There is also the potential for technological change to address some of the features of concern identified by the PSR. Apple's recent announcement in relation to 'tap to pay' on iOS devices has the potential to solve some of the interoperability issues as acquirers and processors could build their own apps to allow their POS software to be loaded onto an iOS (or Android) device. There are, however, some obstacles that could stand in the way of these developments:

- The contactless limits in the UK and SCA rules mean that Chip and PIN will still need to be made available under certain use cases, unless scheme rules change or Online PIN is implemented; and
- Merchants may feel uncomfortable with members of staff having a payment application on their personal devices and may therefore need to purchase additional mobile devices to run these applications, which they may feel uncomfortable managing particularly from a cost perspective.

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

Currently, some POS terminal providers depreciate their terminals over a period of 3-5 years (matching the terms of their leases) while some may provide their terminals at a loss in the hope of recovering revenue via transaction charges. For providers that lease terminals over a period of longer than 2 years, curtailing these leases either indirectly via a technical remedy such as POS terminal portability or directly via a contractual remedy, would encourage them to increase their lease prices to enable them to recover their outlay over the shorter lease period. In Tyl's view, however, there is no reason why this could not be managed such that the prices remain reasonable. In the mobile phone market, by way of comparison, mobile handsets are provided on contracts that are capped by Ofcom rules at two years, and yet package prices remain reasonable for consumers, notwithstanding that the total cost of a typical smartphone is generally significantly higher than the cost of a POS terminal.

PayTek

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[redacted]
Payments Services Regulator

4th April 2022

Dear [redacted]

As we have already explained, the timescales have made it difficult to arrange the meeting offered. Therefore, we will confine our response to the proposed remedies.

Our involvement is also limited to providing finance for POS and EPOS devices to merchants, predominantly through the ISO channel, so whilst our responses are confined to these aspects, we do have serious concerns about the overall need and possible impact of the proposed measures.

General Observations

Throughout the document, there are illustrations of measures in other markets. Some (2.14 to 2.16) admit to limited resulting benefits, others (2.24, 2.40 & 2.53) may have some limited cost benefits but potentially many hidden costs. Common to all these however, is that they are aimed entirely at consumers.

Every merchant is, by definition, running a business and this review is seeking to regulate B2B commerce to provide "protection" for one party to the B2B contract whilst potentially disadvantaging the other. Merchants with a turnover of £50m may be 'small' by official definition but they represent 99% of all businesses, including many of the Vendors, Funders, ISO's and even some Acquirers. Regulating the way in which they may conduct business between themselves is fundamentally anti-competitive. Many merchants are highly sophisticated businesses with access to a huge range of far more complex financial products and services. By your own analysis, paragraph 2.29 shows that 45% of merchants said nothing would make them feel more confident about switching, with less than 10% seeking more information or help.

There are no similar protections in any other area. Even the Consumer Credit Act only seeks to regulate credit to non-limited firms, with the 'business use' exclusion removing essentially all protection on Hire or Lease products entirely.

The process of becoming a merchant and selecting the right type of hardware, service and support is not a homogeneous product and does not lend itself easily to generic pricing and standard terms. Operating as we do on the fringe of the market for almost 20 years now, we can attest to the growing competitiveness in the way Card Processing Services are delivered and the driving down of pricing as a result. It has particularly benefitted smaller merchants. In short, there is no evidence to suggest that there is a mischief here that needs formal regulation.

Questions 18/19

The type of contract that we insist upon before providing funding, must include provision for Help Desk, Hardware and Software Support and expedient free-of-charge replacement of defective equipment that is faulty. To that extent, we are ambivalent about the specific make and model of terminal and it may well be the case that when a replacement is required, it is of a different manufacturer or type. This is catered for automatically. Equally, if a merchant is able to continue to use his existing terminal with a new acquirer, then we have no difficulty with this. However, we do understand that acquirers have strict security requirements and may not all approve every type of device. Equally, Terminal Management Systems may prevent a TID (a terminal unique identifier) being used twice with different acquirers. Terminals with SIM cards may also need SIM and PAC codes swapped or exchanged.

We are not technically qualified to address the precise needs, but one can easily see that there is a huge risk of a merchant being without access to card-taking services whilst these changes are effected - the greatest fear for any merchant. We suspect therefore, this is the main reason why market practice is to provide new terminals that can be shown to work with a new acquirer, before terminating the old.

Question 20

This is a business critical service where chasing the cheapest cost can be counterproductive. Initial deployment not only includes the wholesale cost of hardware, but careful assessment of the potential usage, differing network requirements as well as acquirer terms. This represents a significant investment by the initial provider and he should have a reasonable expectation that he will be able to recover that cost. Fixed terms are therefore commensurate in doing so whilst keeping monthly charges at reasonable levels. Attempts to limit terms would either lead to higher monthly charges, poorer initial service or otherwise require merchants to seek other usurious ways to finance the investment.

Question 21

The device security constraints have historically meant that technological changes are evolutionary not revolutionary. Sunset or grandfathering periods for devices are long, allowing sufficient time for existing commitments to expire or reduced to an economic level. Equally, new standards are signalled months or years in advance. In our history, we have seen the mandatory introduction of both Chip & Pin and Contactless, where the competitive environment within the ISO sector ensured that even merchants with longer initial terms remaining, could be upgraded early without significant additional cost.

Question 22

As outlined in a previous answer, portability would have no direct impact upon our type of financing, but we would be very concerned at the risk that a merchant could be left without any service for potentially significant periods of time, whilst the changeover is effected.

Yours sincerely

[redacted]

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Payment Systems Regulator
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4 April 2020

Dear Sir

"Market Review into card-acquiring services – consultation on remedies" – January 2022

I am writing on behalf of Provident Financial Group in response to the PSR consultation paper "*Market review into card-acquiring services – consultation on remedies*" dated January 2022 for response by 6 April 2022.

Provident Financial Group is the leading provider of credit for consumers whose needs are not well met by mainstream lenders, providing tailored product and service propositions for almost two million customers throughout the UK in the non-prime market.

The Group comprises three core brands; Vanquis Bank, Moneybarn and Sunflower. Our products are;

- **Credit cards**– provided to the non-standard credit market through Vanquis Bank
- **Vehicle finance** – provided by Moneybarn, one of the UK's leading vehicle finance companies
- **Personal loans** – provided under the Vanquis Bank and Sunflower brands
- **Savings accounts** – provided by Vanquis Bank

Provident Financial Group is united in its purpose of '*helping to put people on a path to a better everyday life*'.

General Points

As a credit card issuer within the traditional four-party credit card payment model we have an interest in measures that impact directly upon other parties in the credit card model given the possible indirect impact upon ourselves.

Provident Financial Group
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That said, we accept that we are not best placed to provide an assessment of the four potential remedies i.e.

- greater transparency;
- access to comparison tools (DCTs);
- greater engagement; and
- the ability to change providers easily

and whether they will or will not improve transparency and portability within the merchant acquiring market. We do not have any strong views on the merits of these measures nor how they might best be implemented, believing that others closer to this market will be able to provide more insightful feedback.

However, we do have strong views on the intended scope of the remedies. Since the publication of the draft terms of reference for this review into card-acquiring services in 2018 we observe that there has been a significant development and shift in POS payments, particularly online payments, in the form of the rapid growth of Buy-Now Pay-Later (BNPL) products. BNPL is an increasingly high-profile and popular form of payment (and credit facility) among both consumers and merchants that we are led to believe increases transaction completion rates, increases average transaction values and, in some cases, increases prices[1].

We observe that BNPL is often highly integrated into the payment process and is now heavily marketed as the default or normal and easy payment method, particularly for online payments. With BNPL only likely to grow further there is a risk that its expansion and increasing share of the market could undermine the impact of the PSR's remedies and the envisaged or hoped-for outcomes.

BNPL (like credit cards, a combination of payment and credit) is a largely unregulated product that is in direct competition with, and substitutable for, traditional debit and credit card payments. We understand that BNPL operates a similar model in that merchants are charged a fee for each payment. However, consumers are not charged for the payment service or for the use of credit from which they benefit (unless they miss a payment), meaning that merchants are bearing the bulk of the cost.

As we understand it, in the absence of schemes such as Visa and MasterCard, individual BNPL providers perform a similar role to that of merchant acquirers, essentially a form of self-acquiring. We believe that this development is highly relevant to the market review and its recommendations.

Paragraph 2.3, table 2 of the consultation paper, lists concerns with merchant acquiring alongside the remedies that address those concerns. We believe that the first two concerns (acquirers not publishing their prices; indefinite duration of contracts) could equally be applied to BNPL payments,

[1] See Appendix A

particularly if merchants are considering BNPL as an option to offer their customers as an alternative to traditional card payments.

In our response to the recent HMT consultation on the regulation of buy-now, pay-later (relevant content attached as Appendix A) we strongly advocated that, in order to ensure a level playing field, BNPL providers should be subject to the same regulation as other credit providers. Although the HMT consultation did not consider BNPL from the perspective of payments we believe, that by logical extension, BNPL should also be subject to the same payment regulations as other payment providers.

We therefore believe that Payment Systems Regulator should actively consider whether there are sufficient similarities between cards and BNPL to mean that the card-acquiring review remedies should equally apply to BNPL, or explain where sufficient differences exist that mean they should not.

We also believe that the Payment Systems Regulator should actively consider whether other facets of payment regulation covering topics such as interchange fees or secure customer authentication (we are not aware what customer authentication is made in respect of customer authentication, of BNPL, if any) should apply in full, in part, or not at all to BNPL payments.

Yours sincerely

[redacted]

Appendix A

Excerpt from Provident Financial Group's submission to the HMT Consultation of the Regulation of Buy-Now, Pay-Later (published October 2021)

In response to the recent HMT consultation on the regulation of BNPL products (we are happy to share the full response if required) we observed the following:

> ***Application of Payments Regulation***
>
> *We believe that it is also important to consider BNPL products from the point of view of payments regulation where card payments underpinning similar types of purchase and the relationship between acquirers and merchants are subject to robust regulation. It is disappointing that the consultation document is silent on this matter.*
>
> *We observe that BNPL is often highly integrated into the payment process and is heavily marketed as the default or normal and easy payment method, particularly for online payments. In doing so the use of credit is trivialised and/or disguised whilst customers are encouraged to unintentionally get into debt with ease without realising it. This is borne out by evidence from Bain[2] that BNPL leads to a 57% increase in checkout conversion (i.e. customers not abandoning their basket when reaching the checkout) and an increase of 47% in average order value.*
>
> *As an example of payments regulation, following years of successful lobbying by the merchant community current price interventions on the card payment market limit interchange fees to 0.2% of the transaction value for debit card transactions and 0.3% for credit card transactions[3]. In effect this limits the cost to merchants of accepting card payments. BNPL faces no such price control measures which ultimately protect the consumer and bolster the BNPL business model.*
>
> *There are also expected remedies resulting from the outcome of the Payment Systems Regulator's recent review of merchant acquiring designed to improve competition in the merchant acquiring market, the nature of which and the scope of which is, as yet, unknown.*
>
> *Because BNPL lending has been highly integrated into the POS payments process we believe that BNPL should potentially be subject to the same type of payment regulation as traditional card payments. To date, we know of no scrutiny of BNPL charges to merchants that examines the case for similar regulatory intervention or not.*
>
> *Although merchants have not yet begun lobbying for regulation of BNPL fees, presumably section 75, complaints handling etc would increase costs to BNPL lenders who would then pass them on to merchants if they are to maintain the interest-free proposition for consumers.*

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[2] Bain & Company, Inc – "Buy Now, Pay Later in the UK" 2021
[3] UK Interchange Fee Regulations

According to the report by Bain[4] 30% of merchants had increased the price of their products because of the fees charged by BNPL providers. Of those that had done so, prices had increased by 4%-5%. So consumers are paying for the cost of lending one way or another, even if interest is not being charged.

[4] Bain & Company, Inc – "Buy Now, Pay Later in the UK" 2021

SaltPay

SaltPay

SaltPay's response to the PSR's Market Review into Card-acquiring Services Remedies Consultation

April 6th 2022

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Introduction

SaltPay welcomes the opportunity to respond to the Payments Systems Regulator's ("PSR") consultation paper "Market review into card-acquiring services – Consultation on remedies", published in January 2022.

We are supportive of the PSR's conclusion that the card-acquiring market is not working well for merchants with less than £50 million turnover and of the PSR's intention to fulfil its mandate as the economic regulator for the payments sector. Nevertheless, we echo other stakeholders' concern that the review and the proposed remedies do not sufficiently address the role of card schemes in reducing competition within the acquiring market and restricting competition between payment systems.

We believe the PSR should draw from the experience of other economic regulators in improving competition in their respective sectors but remain mindful of the specific characteristics of the card-acquiring market, in particular the variety of merchant needs and their increasing demand for value-added services.

We remain available to provide further explanations on any of the responses below and look forward to collaborating with the PSR on the evidence-based testing and implementation of any remedies.

About SaltPay

SaltPay is a payment services and software provider, arming local businesses with the technology they need to automate and grow.

We believe that local businesses are essential to any growing society. SaltPay was founded in 2019 with the goal to create affordable, fast, and secure payment solutions that can help small and medium-sized businesses to manage and grow their operations better. Taken for granted by banks and traditional service providers, small businesses have especially struggled to get access to the financial services and software they need.

Starting with terminals to accept payments, we build integrations that power loyalty, customer relationship management, bill payments, ordering, ePOS and so much more. We strive to differentiate on care, so our dedicated field agents and customer service teams are always ready to deliver local and personal support.

We're a UK-based, pan-European business with a global presence. We are home to over 1,500 employees in 14 offices across 12 countries. This includes a material presence in the UK following the acquisition of RMS in 2021. In addition to our SMB solutions, we also offer a range of other services and software such as issuer payment processing, cloud-native payments, and business management Software-as-a-Service to global FinTechs, payment providers, banks, and MNOs.

Executive Summary

I – Summary Boxes

SaltPay is supportive of increased transparency for SMEs for both price and non-price factors. However, creating generic merchant summary boxes would require a high level of artificial standardisation that could result in little utility to merchants and reduce innovation. It would also significantly affect providers' pricing strategies, thus constituting a disproportionate interference in the market.

Alternatively, bespoke merchant summary boxes provided individually to merchants by their provider (upon agreement and continuously throughout their term) would be helpful to improve merchants' ability to search and bargain. Importantly, the PSR needs to ensure that they adequately account for emerging alternative payment methods and non-price factors that are sold as a package. Bespoke summary boxes should also clearly communicate to merchants the consequences of termination in any given month, to ensure merchants are aware of their switching costs.

II – Direct Comparison Tools

Digital Comparison Tools (DCTs) may help merchants search and switch between providers of card-acquiring services by improving the merchant's ability to compare providers. We believe that these could emerge as a market-driven solution because of the additional transparency and switching behaviour introduced by the PSR's other remedies. Therefore, we do not believe it is necessary or proportional for the PSR to be heavily involved in the creation of a DCT ecosystem. Nevertheless, we acknowledge that if a DCT ecosystem emerges driven by merchant demand, it may be prudent for the PSR to implement rules that ensure DCTs are transparent and independent.

III – Trigger Messages

If well-designed, trigger messages have the potential to be an effective method of improving merchant engagement and addressing the identified feature of concern relating to the indefinite duration of contracts. Their main purpose should be to maximise critical merchant engagement with their contract terms and empower them to switch if they are not satisfied. For this, trigger messages need to be clear, factual, informational (but not overwhelmingly so), and provide clear next steps for the merchant. Additionally, we suggest the PSR should consider the inclusion of terminal lease contracts in any trigger messages remedy.

As to the content of trigger messages, the PSR needs to ensure that there is not a disproportional focus on headline prices, which might obscure hidden fees and fail to give necessary significance to any additional services the merchant is receiving as part of their agreement. To maximise engagement, it is also important for trigger messages to clearly communicate to merchants that the terms of their termination have changed, and that they are free to leave without incurring early termination costs. Finally, while we agree that trigger messages are a better alternative to imposing an end-date on all contracts, it is nevertheless a complementary remedy to contractual reform that the PSR should introduce to address the feature of concern.

IV – POS Terminal Portability and Contracts

SaltPay is supportive of the PSR's intention to remove barriers to switching created by POS terminal agreements. However, we do not support the proposed technical remedy of terminal portability as a regulatory intervention. The costs and practical implications of introducing POS terminal portability are likely to be disproportionate to its potential benefits. Introducing such a fundamental intervention would require extensive industry cooperation and the development of new centralised systems overseen by the PSR. It would introduce a higher interference than a contractual solution and unnecessarily delay the mitigation of the feature of concern when compared to tackling POS terminal contracts directly. In other words, long-term POS terminal hire agreements that are bundled with card-acquiring agreements can prevent micro-enterprises and SMEs from enjoying the technological advancements and efficiency gains in the market.

We suggest two reforms to POS terminal contracts bundled with acquiring. Firstly, the PSR should apply the same regulatory protection afforded to micro-enterprises (defined as businesses with turnover under €2 million euros or less than 10 employees) under the *Payment Services Regulations 2017* to both acquiring and POS Terminal contracts. This would mean POS Terminal Contracts for micro-enterprises could not include termination fees when the contract has been in force for longer than six months. Secondly, for merchants that do not qualify as micro-enterprises but are subject to the feature of concern, we suggest implementing a remedy that prevents the automatic renewal of POS terminal hire agreements into successive fixed terms. Rather than requiring contracts to have a strict end-date, the PSR would instead be imposing limits as to the length of any auto-renewal period to a one-month rolling term only. This gives SMEs more flexibility and freedom of choice as to what duration of an initial term suits them best while still preventing PSPs from exploiting merchant inertia when the agreement is coming to an end by locking the merchant in another fixed term.

V – SME Engagement

The PSR needs to ensure it addresses both *actual* and *perceived* barriers to switching. Even after the introduction of remedies, some merchants may be deterred from switching because they still perceive it as a hassle. Drawing inspiration from the Current Account Switching Service, we suggest the PSR engage in a messaging campaign to inform SMEs of the potential benefits to switching and how it has become easier, as well as carry continuous research and surveys to track progress. Additionally, the PSR should place a larger effort on encouraging merchants to bring complaints of mis-selling and other inadequate behaviour of PSPs to the attention of the Financial Ombudsman.

VI – Issues not addressed by the consultation

[redacted]

I - Summary boxes

Question 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

1. SaltPay is in favour of increasing price transparency in the card-acquiring market and believes that it can improve merchants' ability to compare providers and make better informed decisions. Summary boxes can help contribute to this goal by implementing transparency requirements and standards to display relevant pricing and non-pricing information to merchants.

2. However, as explained below, while bespoke summary boxes could improve comparability depending on their design, implementing generic summary boxes would require a level of artificial standardisation, which would be of little utility to merchants and ultimately result in reduced incentives to innovate with value-added services and alternative pricing structures.

3. Additionally, while summary boxes could improve merchant ability to *search* for an alternative provider, it would not meaningfully improve the ability to *switch* between providers. The latter is more strongly associated with merchant inertia, and both *perceived* and *actual* barriers to switch. We suggest these factors can only meaningfully be addressed via trigger messages and, more importantly, contractual reform that prevents merchants from being locked into long fixed term contracts with onerous termination costs. Please refer to the last two remedies for more information on this.

Question 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider, and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?

4. Bespoke merchant summary boxes provided individually to merchants by their provider would be helpful to improve merchants' ability to search and bargain with providers. Generic summary boxes, on the contrary, would require a level of artificial standardisation, resulting in little utility to merchants and reduced innovation, constituting a disproportionate interference in the market.

Generic Summary Boxes

5. SaltPay would like to echo the concerns of multiple respondents to the Interim Report regarding the risks and unintended consequences of any attempt to reduce offerings to a universal benchmark. Offerings to merchants are inherently complex, especially when considering price and non-price factors. Price factors vary significantly based on a wide range of considerations, such as the nature and sector of the merchant's business, the size of the merchant, their risk profile, their transaction mix, and their vision for the business going forward. For example, even within the different areas in London, there is significant variation in the kinds of transactions that occur, given the different uses of credit, commercial, international, and three-party cards, all of which are subject to different and highly variable fees that are beyond the control of providers.

6. Additionally, SMEs within the same card-turnover bracket may have different needs for value-added services. One might want to improve customer loyalty in their store, the other might want to expand geographically, and yet another might look to open their first e-commerce shop. Finally, different acquirers and ISOs target different merchant types and verticals, as well as their product offering, so pricing is developed accordingly.

7. This differentiation has led data-driven providers to develop models that enable them to give a cost-efficient bespoke rate to their merchant depending on the factors above. Enforcing generic summary boxes would create the risk of the industry adjusting their pricing structures to compete on the standardised metrics that, as we explained, would necessarily be overly simplistic for the heterogeneity of merchant needs. This would also create inordinate risk for acquirers and ISOs - who would have to estimate and account for a higher level of uncertainty within their simplified pricing - and might therefore lead to an increase in prices to account for the associated risk.

8. Moreover, this differentiation has only intensified with the increasing merchant demand for value-added services and providers wishing to develop a relationship with their merchant beyond card-acquiring. Some providers may choose to reduce their transactional fees or waive terminal rental on the basis that merchants will use other subscription services that they offer. Others may increase their transactional fee to account for cost-additional services or even alternative payment methods such as account-to-account. Therefore, seeking to reduce price competition to a standard set of comparable fees risks limiting the extent to which suppliers of card-acquiring services can compete via differentiated pricing. In a market characterised by such heterogeneity of demand, this would worsen efficiency and quality of service and could ultimately lead to a reduction in competition and choices for merchants.

9. Generic summary boxes that effectively steer providers to commoditise their offerings by incentivising merchants to focus on a "plain vanilla" comparable offer will force providers to compete within a narrower range of price-based variables. This will reduce incentives to offer innovative and differentiated products to meet evolving merchant needs. This will lead to less efficient pricing and less tools for SMEs to compete with larger merchants.

10. Still, even if generic boxes do not lead to the undesirable standardisation of pricing structures, they would still be ineffective at mitigating the feature of concern. Under this scenario, providers would continue to offer bespoke and bundled agreements to merchants despite having generic summary boxes on their website or other promotional material. Given that the bespoke agreement is likely to vary widely from a generic summary box, they would not only be of little practical use for merchants, but they would also be misleading and create false expectations. While arguably the PSR could go further and force providers to adopt segmented pricing structures based on merchant card turnover, transaction mix, and many other factors, this would be highly inefficient, given the complexity outlined above, and disproportionate to the feature of concern.

Bespoke Summary Boxes

11. If properly designed, bespoke summary boxes that are made prominently available to merchants on the top of their agreements and continuously on their bill statements would improve merchant engagement and comparability without creating the above unintended consequences.

12. The reason for which the PSR may be considering both generic and bespoke summary boxes may be based on the assumption that the latter is helpful for merchants to be aware of their current deal, while the former can help merchants compare multiple different providers before making a decision. This is, however, not an accurate representation. As stated above, the prominence of bespoke offers that deviate from any headline pricing displayed by providers means that many merchants can only truly compare offering upon receival of a quote, after they have either been approached by a sales representative or request one online after submitting information. Merchants are then able to compare the different bespoke quotes they have received and made an informed decision.

13. Similarly, when sales representatives approach merchants to convince them to switch providers, they usually request to see the terms of their current agreement, so they are better placed to give the merchant a better bespoke deal. Therefore, bespoke summary boxes would not only ensure a

merchant remains aware of their costs through the duration of their agreement, but also facilitate the comparison between different bespoke deals.

14. Additionally, summary boxes would help mitigate practices of mis-selling by sales representatives with SMEs. Typically, mis-selling occurs when a sales representative makes verbal representations and promises of a specific deal to a small merchant on their initial visits which are then not reflected on the contract. Out of trust in the sales representatives, the merchant may neglect to review the agreement, leading to the merchant either paying additional fees or being locked into a fixed-term contract they were not aware of. A bespoke summary box that features on the top of every contract would facilitate a merchant's ability to review whether the terms included the agreement match their expectations.

Question 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

15. SaltPay broadly agrees with the inclusion of the price and non-price factors outlined by the PSR but would like to comment on three elements.

16. Firstly, the PSR needs to ensure that the creation of different categories of costs such as Authorization Fee, PCI Compliance, and MMSC among others do not create the opportunity for providers to bypass having to disclose their hidden fees by creating a different category. This can be resolved by prominently displaying a category that aggregates all costs per transaction (either as a percentage or fixed) and all regular monthly costs. Importantly, this should also include what early termination fees the merchant would be liable for if they terminated in that month, as well as how many months are left until a termination fee is no longer applicable.

17. Secondly, the PSR needs to ensure that there is a category for any value-added services provided to merchants which are being sold in conjunction with card-acquiring, even if they are not a supportive feature of card-acquiring, such as loyalty schemes, account analytics, or a booking management system. As explained under Question 2, these are increasingly being provided by the Payment Service Provider as merchants seek a one-stop shop offering and as providers aim to develop a more productive relationship with their merchant. They can also significantly affect the price for card-acquiring that the merchant is offered. Thus, including a category for these additional services is entirely within the scope of the Review.

18. Thirdly, bespoke summary boxes should also include categories to outline the different payment methods the provider is enabling the merchant to accept, such as account-to-account and cryptocurrency payments. Limiting the information to card types does not acknowledge the emergence of alternatives to cards and distorts summary boxes in favour of card-based methods. Although the PSR might interpret the scope of its review and findings narrowly and thus restrict the remedies to the card-acquiring market, this fails to consider that alternative payment methods are being provided by the same PSPs as additional features on top of card-acquiring. Therefore, they are a relevant factor when considering how to improve competition among PSPs.

19. Importantly, including the mention of the availability of alternative payment methods would also be aligned with the PSR's renewed focus on competition *between* payment systems. Especially considering the low but increasing adoption of Account-to-Account (A2A) and digital currencies for P2B transactions, helping merchants become more aware of the different options available so they can future-proof their business and also steer consumers into more cost-efficient payment methods. Towards that end, these alternatives should be displayed alongside available card-types and not merely as additional services.

Question 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

20. The implementation of bespoke summary boxes as discussed above would increase transparency without placing an onerous burden on providers. They could therefore be implemented for all merchants for whom the card-acquiring market is not operating well (according to the PSR's findings), namely merchants with up to £50m turnover. SMEs would benefit the most from bespoke summary boxes because they have less time and resources than other providers to dedicate towards scrutinizing their deals and comparing providers. Hence, this additional transparency mechanism would make the process easier. Larger providers not only usually have dedicated teams or specialist consultancies to manage their payment acceptance costs but also typically have a longer-term relationship with their provider that is much more granular and complex. As such, it would not be practically captured by a bespoke summary box.

21. If the PSR decides to implement generic summary boxes despite the risks mentioned above, it should target them at micro-merchants within the £380,000 annual card turnover threshold, whose pricing outcomes were found to be significantly worse than other merchant segments. The PSR would have to carry a careful analysis of what subset of this merchant segment typically receives standardised deals from providers and limit the application of generic summary boxes to that subset, in order to mitigate the risks of higher prices and less innovation.

II – Digital Comparison Tools (DCTs)

Question 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

22. Digital Comparison Tools (DCTs) may help merchants search and switch between providers of card-acquiring services by improving merchant's ability to compare providers. They could organically evolve from any standardised pricing and non-pricing information displayed by providers on their websites, from bespoke summary box information shared by merchants, and from any data or insights produced by the PSR's continuous research of the card-acquiring market. As DCTs gather more data, they would be able to provide merchants with more accurate information about what they can expect from a provider's quote.

23. However, it is important to understand their limitations. Firstly, the increasing differentiation between providers on both price and non-price factors creates a risk that DCTs would lag behind changes in the market as providers compete and devise new innovations and pricing structures for merchants. Secondly, DCTs should not be seen as a replacement for direct contact with providers, which are able to better explain the value of their offering to the merchant's direct needs. This is especially true for value-added services, since merchants may not be aware of them or understand their value, and thus would not take them into meaningful consideration when comparing providers utilising a DCT. Both of these factors create the risk that DCTs become skewed towards pricing considerations, thus precluding like-to-like comparisons.

24. Furthermore, the PSR should allow DCTs to organically develop as a market driven solution, rather than deliberately investing to create a complex system of rules, data sharing, and accreditation. Increasing transparency in the card-acquiring market with bespoke summary boxes, increasing SME engagement via trigger messages, and facilitating switching via contractual reform will create a more fertile environment for DCTs to emerge out of market-driven solutions in accordance with what information is valuable to merchants. Data sharing from providers would also emerge from added competitive pressure, as providers would want to ensure they are accurately featured within DCTs.

25. There is no strong rationale for the PSR to force the creation of these providers and centrally decide the rules of the system, while it is trying to create a market with more empowered merchants and more transparent providers that would be well-positioned to achieve that independently. Creating a system now would incur significant costs for both the PSR and the industry, as well as require cross-industry cooperation that could delay the creation of any DCTs and would likely not pass a cost-benefit analysis given their limited benefit and the possibility of a market-driven solution. Once an ecosystem of DCTs emerges and is sufficiently mature, the PSR can monitor any anticompetitive behaviour such as providers trying to gain an artificial advantage within a DCT and introduce an accreditation scheme that subject DCTs to certain rules and transparency requirements. Our view is then that the PSR should first observe the impact that its other remedies have on the card-acquiring market and then assess if there is the need for a regulatory initiative on DCTs.

Question 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

26. As discussed in other questions, if the PSR is to implement remedies that improve transparency and merchant engagement and facilitate switching, DCTs could naturally emerge by aggregating

existing data from the market, market research and surveys conducted by the PSR, and any data shared by providers and merchants that find DCTs valuable. Thus, the main impediment to the development of DCTs would be if the PSR fails to introduce remedies that encourage and facilitate switching, such as trigger messages and contract reform, as well as increase the transparency of both pricing and non-pricing offerings by providers through bespoke summary boxes which would facilitate DCT's aggregation of data.

27. Another obstacle to the development of DCTs is the lack of SME awareness of their existence and potential value. While removing barriers to switching will help alleviate that, the PSR should incorporate in its wider SME engagement efforts, messaging encouraging SMEs to utilise Digital Comparison Tools, with clear explanations of their value. The PSR would thus be significantly supporting the market-driven development of DCTs via this provider-neutral public messaging, as well as any data the PSR produces as part of its continuing research into the card-acquiring market and the switching behaviour of SMEs. Please refer to the section 5 on "SME Engagement" for more details.

Question 7: What information do you think should be provided to merchants by DCTs?

28. Merchants would benefit from receiving all information contained in bespoke summary boxes (refer to question 3) which could be personalised to them after inputting key information such as business sector, transaction mix, and annual turnover. Combined with this, DCTs could integrate the review scores and highlights of different providers to give merchants a more complete picture of the provider sales practices and customer service.

Question 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

29. As stated above, the PSR should not force providers to share data with DCTs because it is not a necessary or proportionate way of achieving more comparability between providers. DCTs can emerge from potential providers using available market data and information (also published by providers), as well as by providing incentives for merchants to share their bespoke summary box information. Over time, DCTs will accumulate more data and gain an increasingly accurate representation of the market. If providers feel they could be more accurately represented, they will have an incentive to share their data voluntarily. Additionally, the PSR could facilitate the emergence of DCTs by carrying out market studies and merchant survey as part of its continuous efforts to understand the card-acquiring market and improve SME engagement (refer to section 5 for more details).

30. If the PSR decides to force providers to share data with DCTs, this should only apply to larger providers to avoid creating an additional burden on emerging providers, which would increase barriers to entry, and thus reduce competition.

Question 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

31. SaltPay does not have a strong view on this question. It is expected that as DCTs emerge, they will initially have a limited amount of data and low merchant confidence in their recommendations. However, over time, as SMEs become more willing and able to switch, they will increasingly feel more comfortable with sharing their data in order to get more accurate comparisons.

32. A barrier to data sharing could be a lack of merchant understanding of the benefits they could receive in the form of more accurate comparability. The PSR could include this as part of a wider SME engagement campaign described in section 5 of this response. This would help merchants feel empowered over their data and more willing to share it with DCT providers they feel could add value to their search.

Question 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

33. SaltPay does not have a strong view on this issue. Since DCTs are unlikely to become a replacement for direct contact and negotiation between providers, then confidence in DCTs will likely be significantly determined by the discrepancy between what recommendations and estimates merchants receive on a DCT and the quote or offer they receive from providers. Given the often-bespoke nature of card-acquiring service packages, this will be a primary challenge for DCTs in their infancy. As DCTs gain more data and compete on providing the most accurate and useful information to merchants, this confidence will likely rise.

34. Another factor that impacts merchant confidence will be the extent to which DCTs are transparent about how they make money and their links to suppliers. Only two thirds of sites assessed in the CMA's web sweep provided information on revenue sources.[1] Only about one third of DCTs examined in the CMA Energy Market Investigation website scraping gave information about financial arrangements with suppliers that could influence how the DCT ranks suppliers. 43% of survey respondents to the CMA investigation said they were not confident because they did not trust or believe Price Comparison Websites[2]. If merchants are unsure about any affiliations a DCT has with specific suppliers, this will likely lead to distrust. This equally applies to how DCTs use merchant data and share it with third parties.

35. Therefore, it is expected that DCTs will compete on their neutrality and transparency to gain merchant trust. As stated above, once an established DCT market evolves, it may be necessary for the PSR to create rules around the independence and transparency of DCTs as part of an accreditation process.

Question 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

36. Micro-enterprises would benefit most from DCTs, as they have less time and resources to dedicate towards comparing providers by getting multiple quotes and engaging in extensive negotiation processes. Nevertheless, the PSR should allow DCTs to naturally emerge from the added transparency and ease of switching introduced by other remedies which will then create a larger demand from merchants for comparison tools.

37. Designing and targeting DCTs to support particular groups of merchants adds unnecessary complexity, risks being overly prescriptive and paternalistic about what merchants find valuable,

[1] "CMA Digital Comparison Tools Market Study: Final Report", 38
[2] UKRN Price Comparison Websites Final Report (2016), 18

and carries potential unintended consequences. The PSR should allow merchant demand to define this by removing barriers to their engagement.

III - Trigger messages

Question 12: Do you agree that provision of information by providers of card- acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

39. There are three relevant issues to address in this question. The first point is to assess whether trigger messages would, in principle, work for the card-acquiring market. Then, which timings for sending these messages are most sensible. And finally, whether this provision of information should extend to terminal lease contracts or be restricted to card-acquiring services.

40. Firstly, if designed properly, trigger messages have the potential to be an effective method of improving merchant engagement and, as such, address the identified feature of concern related to the indefinite duration contracts. Evidence from the experience of the energy[3], mobile, and broadband[4] markets with prompt messages suggests that they are successful in increasing consumer engagement and switching behaviour. Contrary to the previous remedies that rely more heavily in the comparability of products and services, we believe that, for trigger messages, these learnings from other regulated industries transfer more easily to the card-acquiring market. Focusing on the initial step in the switching journey of getting merchants to think critically about their contract and choice of provider has significant parallels with consumers from these other regulated industries, especially for smaller merchants that warrant increased consumer protection.

41. Secondly, with regards to timing, the provision of trigger messages should follow the basic principle of guaranteeing that merchants are always made aware of a change in their termination conditions, namely their ability to switch under less onerous terms. As such, we agree in principle that trigger messages should be provided at the end of the initial fixed term and at the end of any other fixed term agreed. Additionally, the PSR should also consider prompt messages for rolling contracts. In these cases, merchants are free to switch at any point without incurring any exit fees but may not be aware of it, contributing to the merchant inertia the PSR is attempting to address. Ofcom has found that most of the respondents in their trials regarding end-of-contract notifications were unfamiliar with the term "monthly rolling basis". As such, to avoid overwhelming the merchant with monthly formal communications, such as an e-mail or letter, the PSR should explore the inclusion of a text box on the merchant's bill statement that clearly states that the merchant is free to switch provider at any point and guides the merchant to find more information if he so desires.

42. Finally, although the PSR seems to be alluding to just card-acquiring contracts for this remedy, we believe it should consider the inclusion of terminal lease contracts in any trigger messages remedy. The feature of concern that underlies trigger messages is the indefinite nature of card-acquiring services that exploit merchant inertia and limit switching. Terminal lease contracts, as the PSR acknowledged in its fourth feature of concern, act to prevent or discourage merchants from searching and switching card-acquiring services. Given that indefinite duration contracts are also prevalent in terminal provision and hamper switching, prompt messages for terminal lease contracts should also be explored. These trigger messages would not necessarily help the merchant switch providers, seeing as terminals are not interoperable and that their interoperability is neither feasible nor desirable, which we explore in detail in section 4. However, they would inform the merchant that they no longer have to pay exit fees for his terminal, prompting them to reconsider their card-acquiring provision.

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[3] Ofgem: "Insights from Ofgem's consumer engagement trials: What works in increasing engagement in energy tariff choices?" (2018). More than 1.1 million consumers were trialled over 10 different trials and the conclusion was that prompt messages with information on better tariffs available have a very significant effect in foster consumer engagement.

[4] Ofcom - End-of-contract notifications: Attitudes to and understanding of alternative content options - Research Findings (July 2018). Ofcom found that customers are very receptive to receive end of contract notifications and that they are effective in stimulating switching behaviour.

Question 13: Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

43. We agree that trigger messages are preferable to the imposition of end-dates on all card-acquiring contracts. Still, the PSR has other options regarding fixed-term contracts such as ending the automatic renewal of fixed-term contract into successive fixed terms. Furthermore, the real focus of the PSR regarding fixed-term contracts should be on terminal lease contracts, where trigger messages can at most act as a complement to a contractual remedy.

44. We agree that the PSR should focus on trigger messages rather than pursuing a remedy that would impose a fixed term on all card-acquiring contracts. We echo the concerns of other industry players regarding the mandating an end-date on all card-acquiring contracts. As the PSR is well aware of these points, this would create a risk that merchants that hadn't taken action before due date, would have a sudden stop of card-acquiring services, making them unable to accept any card payments, which would naturally cause a severe disruption to their business that needs to be avoided at all costs. Given that smaller merchants, with less resources, are those more likely to be found in these positions, this would disproportionally affect them. As such, we believe that trigger messages provide a more proportional remedy that encourages switching while safeguarding the provision of card-acquiring services in case of merchant inertia.

45. However, this does not mean that there is no action the PSR can take regarding acquiring fixed-term contracts that avoid the risk of a sudden cessation in the provision of services. The PSR should investigate the existence of contracts that automatically renew for a new fixed term. In this case, providers take advantage of merchant inertia to lock them in into another long-term contract. The PSR should investigate the possibility of banning automatic renewal of contracts into a new fixed term for SMEs. If the merchant has assessed the terms and wishes to enter into a new fixed term contract then they have full flexibility to do so, but if they have not had time to think critically about their needs and consider their options, then the contract would move to a monthly rolling basis. This would ensure that the merchant continues to receive card-acquiring services while retaining the optionality until they feel confident to make a decision on whether to a agree to a new initial term with the same provider.

46. Moreover, while that the PSR should focus on trigger messages instead of imposing a fixed-term on all card-acquiring contracts, this does not mean trigger messages are sufficient to address the current lack of switching behaviour from merchants. The above suggestion of ending automatic renewal of fixed term contracts is just one example of what is still possible. Additionally, as we will explain in greater detail in the section 4, the PSR needs to focus on terminal lease contract reform. The Payment Services Regulations (2017) is designed to provide sufficient protections to micro-enterprises when dealing with PSPs, but their effectiveness is being undermined by unregulated POS terminal contracts. While trigger messages can help prompt merchants to act, action on terminal lease contracts has the greatest chance to move the dial.

Question 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

47. There are two guiding principles that the PSR should follow in deciding on the timing for the delivery of trigger messages. Firstly, the message cannot be sent so early that the merchant does not perceive the urgency to act and ends up forgetting and not taking any action. Secondly, the message cannot be sent so close to the termination date that the merchant doesn't have time to reflect and act on the information provided. Evidence from the mobile and broadband markets suggests that sending the message between ten and forty days of the termination date should be

enough to fulfil both conditions. If Ofcom's guidance regarding timing were to be followed, however, we would encourage the PSR to investigate whether the minimum period of 10 days would be enough to ensure a sufficient reflection period and a smooth transition into a new provider if the merchant chose to switch. As with previous remedies, the PSR needs to pay close attention to the differences between the card-acquiring and other regulated markets that it might draw inspiration from for these design choices.

48. For rolling contracts, the PSR should consider including a softer trigger message that would not require a formal communication, i.e., could be included in a bill statement, for example, that would have the recurrency of the periodicity of the rolling contract (every month for monthly rollover contracts). This softer trigger message would merely remind the merchant of the nature of the rolling contract and refer them to additional information on switching.

49. Finally, for terminal lease contracts, there could also be a similar "light touch message" that would update the merchant on how much time remains on their contract and the potential terminal costs if they decided to immediately terminate contract for another card acquiring provider, without the burden of an existing terminal affiliation that only works with his current provider. Since most termination costs for terminal lease contracts are simply the terminal lease times the number of months remaining on the lease contract, this message would remind the merchant that his burden to switch is decreasing as time goes by which could encourage them to switch if they deem that the termination cost is sufficiently low.

Question 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

- **Information on the purpose of the communication**
- **Pricing information for the merchant including prices per transaction, service consumption data, how much the merchant paid for their card-acquiring services in the past 12 months, and how this has change since the beginning of the contract.**
- **The amount that the merchant would save by switching to the lowest-priced option**
- **Information on non-price benefits of switching**
- **Information on POS terminal switching**
- **Information on how switching works, and what merchants should do if they wish to switch**

50. The main purpose of the trigger messages should be to maximise critical merchant engagement with their contract terms and entice them to switch if they are not satisfied. For this, trigger messages need to be clear, factual, informational (but not overwhelmingly so), and provide clear next steps for the merchant.

Information on the purpose of the communication

51. It is essential that any prompt message begins with its purpose. The merchant needs to be provided with clear and factual information on the change that is happening, what it means for them, and what action can be taken. Only after this information is properly conveyed is the merchant sufficiently contextualised on the decision and prepared to critically evaluate the remaining information provided by the trigger message.

52. Drawing from the experience of Ofcom in the mobile and broadband market, the end-of-contract notification (ECN) layout that tested the best included a clear communication of the core messages at the top. Moreover, mobile and broadband consumers deemed essential the provision of, among other, the following pieces of information: i) the ECN headline, ii) end date of the contract and ability to switch without charge, iv) any applicable notice period. We believe that merchants would

consider this data to be crucial as well and, additionally, would benefit from upfront reassurance that any intention to switch would not cease the provision of card-acquiring services until the switch is complete.

Pricing information for the merchant including prices per transaction, service consumption data, how much the merchant paid for their card-acquiring services in the past 12 months, and how this has changed since the beginning of the contract.

53. Pricing information could increase the salience of the merchant's cost of acceptance, which is often opaque. However, we are concerned that these figures, if aggregated, would unwisely put too much emphasis on the cost of the acquiring services, leaving insufficient space for nuance in interpretation of card-acquiring offerings that include value-added services or that focus on non-price factors. Putting this metric on the overall cost alone could lead to a race to the bottom in competition on price factors, thus hurting innovation in value-added services and other non-price factors.

54. As such, if the PSR is keen to include a summary of pricing information, then it should provide a breakdown of the pricing by services, without overwhelming the merchant with a lengthy trigger message. Although we agree in principle to include a table with summary pricing and cost information that is exclusive to the merchant in the trigger message, the utility of this addition would be connected with the success of the PSR in overcoming the challenges identified with summary boxes that we've discussed at length above.

The amount that the merchant would save by switching to the lowest-priced option

55. We do not believe including this information would be helpful. As previously mentioned, the PSR needs to be sensitive to the differences in merchant needs compared to the more homogenous needs of consumers in regulated markets such as energy, mobile and broadband from which the PSR is taking inspiration.

56. To provide an estimate of savings, there would need to be a lowest-price benchmark chosen that would need to simplistically condense merchant demand for card-acquiring services to one dimension, such as the basic cost of acceptance. This would neglect important non-price factors such settlement time, customer service, fraud prevention, among others. It would also provide a competitive advantage for acquirers with more basic offerings that would be very competitive on the price metric chosen for the lowest-price cost benchmark, but that aren't equipped to complement their offerings with any other value-added services. As smaller merchants are the ones whose needs are more adjusted for bundled offers, this misleading savings estimate would steer them in searching for acquiring offerings that don't ultimately fulfil their needs.

Information on non-price benefits of switching

57. Contrary to other regulated sectors, acquiring offers are still quite differentiated in non-price dimensions such as settlement time, customer service, hardware provision etc. This means that one cannot trivially disassociate price and non-price factors from each other when providing an overview of card-acquiring offers. Our concern with the content discussed thus far is that it will steer the merchant to excessively weigh price factors which would ultimately be detrimental for their business. This risk is particularly higher for smaller merchants that, not having the resources to extensively research the different offerings, would most likely follow the simpler metrics more often.

58. As such, it is very important that information on non-price benefits is conveyed to merchants in prompt messages. This could be achieved by giving providers with a larger focus on non-price benefits the flexibility to prominently include them as separate but equally important categories. There could be a section that outlines common additional features such as settlement time and dynamic currency conversion, and another less prescriptive one dedicated to value-added services.

Information on POS terminal switching

59. It follows from the PSR's own feature of concern regarding POS terminal lease contracts that the provision of information regarding POS terminal switching is of great relevance for merchants. As such, we believe that basic information on the merchant's terminal lease contract such as termination date and costs should be provided in the trigger message. We acknowledge how this feature might prove challenging if the terminal is being provided by a third-party. Still, given the importance of terminal lease contracts for the merchant's decision regarding card-acquiring services, it's important that the provider finds a way to easily communicate this information to the merchant so that they have a complete picture of the costs of switching.

60. If, as we suggest in the next section, terminal lease contracts are included in the scope of the PSRs (2017), then micro-enterprises will have the same protections for terminal contracts that they currently enjoy for card-acquiring contracts. This means they will be able to terminate after the initial six months without incurring any additional termination costs, eliminating the mismatch between the two contracts and their potential to impede switching. If this remedy is adopted, trigger messages for micro-enterprises could simply feature a mention of the added protection regarding terminal lease contracts which would avoid the need for acquirers partnering with third party terminal providers to produce their trigger messages.

Information on how switching works, and what merchants needs to do if they wish to switch

61. The key message that needs to be standardised and transmitted to the merchant is that switching is not a hassle. For this, the trigger message should conclude by setting out clear next steps for merchants to follow if they do decide to switch, providing all the relevant links or contact information on the prompt message. Note that such information was included in the layout for prompt messages that tested the best in Ofcom's trials with mobile and broadband consumers.

62. Moreover, section 5 of this response calls on the PSR to increase SME engagement through the creation of marketing materials and a website to inform merchants on the switching process. This could be leveraged in trigger messages by referring to educational content that demonstrates how easy and straightforward switching has become as a result of the PSR's remedies.

Question 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

63. The PSR needs to ensure that, whichever the communication channel chosen, the merchant opens and engages with the prompt message. Our view is that a combination of letter, e-mail, and SMS would provide the best probability of success in this objective.

64. A letter would probably provide the greatest chance that the message is received and read. Firstly, it would be the channel that guarantees greatest accessibility as it would be the friendliest option for older generations, who might not use email often. Secondly, it would be perceived as a more official communication which could prompt the merchant to pay more attention to it. This trust could be fostered, for example, by clearly stating in the letter that it is a communication "endorsed" by or in compliance with the PSR, or by drawing from behavioural insights regarding the quality of the letter itself to increase merchants' belief that it is a legitimate communication. Finally, if the merchant is used to receive his bill statement in the mail as well, providing the trigger message in form of a letter would be the logic way for the merchant to continue to interact with their provider.

65. Still, e-mail provides several advantages that can't achieved with the use of a physical letter. Firstly, it would provide the option of adding useful links to refer merchants to other sources for further

information or to DCT websites. This would be a convenient way for merchants to start searching for new providers using trustworthy sources suggested by the PSR. Secondly, emails are immediately stored and can easily be referred back to. Thirdly, email also provides data on whether merchants are reading and clicking in the included links. This data can provide insights to the PSR on whether the trigger messages are being read and possibly iterate over the first version of the message if needed. Similarly, SMS would provide a very convenient way to communicate with a smaller and snappier message that could just state the fact base of the communication (contract coming to an end and call to action to search) and refer to the email or letter that the merchant has received. SMSs only make sense as a complement to other communication channels. Compared to physical letters, e-mail and SMSs provide a much cheaper and ecologically sensible method to engage merchants. Note that Ofcom's research found that consumers preferred method of communication was e-mail supplemented by SMS.

66. Our view is that the PSR should investigate including all three communication channels (email, letter, and SMS) in its delivery strategy. All three provide unique advantages and should not impose a disproportional cost to implement. Still, if the PSR were to choose between e-mail and letter, our view is that it should opt for the e-mail but that it needs to ensure that indeed every merchant is able to access the message.

Question 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

67. Trigger messages, as well as other remedies suggested by the PSR, are consumer protection measures. Typically, these are applied in regulated industries in which demand is very inelastic and consumers lack resources to search and bargain with providers. Logically, trigger messages in the card-acquiring market would benefit those merchants whose characteristics are closest to consumers in these industries, i.e. micro-merchants. In the PSR's categorization this would be merchants with less than £380k annual turnover. The usefulness of trigger messages decreases as the merchant increases in size and the rationale for increased protection (low bargaining power and resources) weakens.

68. Since the PSR's own feature of concern encompasses smaller merchants, it follows that this remedy should be targeted at this group. As such, when making design and content choices, the PSR should in doubt cater to the demographic and behavioural characteristics of SMEs. It also follows from this that these requirements should not apply to larger merchants who do not require such prompts and would likely be a waste of resources for providers to implement and for the PSR to enforce.

IV - Terminal interoperability and contracts

Question 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

69. Even if POS terminal portability/interoperability were technically feasible (see more below), it still would not sufficiently address the feature of concern. Different types of merchants need different terminals. Some merchants benefit from having a large screen and the features of a more advanced operating system. Others require more robust devices given the nature of their business. Additionally, providing modern and innovative POS terminals is often a differentiating factor of emerging acquirers and payment facilitators in the market. These companies have often made significant investments, including in research and development, to devise a terminal offering that meets the needs of their customers and can integrate value added services that help merchants (especially SMEs) better manage their operations. As a result, there is a wide spectrum of terminals on the market, and the differences between them are significant for merchants and constitute part of the business proposition for PSPs.

70. This differentiation in both the hardware and software of POS terminals and the value-added services providers offer renders terminal portability less impactful. Increasingly one of the main reasons that a merchant may be looking to switch is the POS Terminal a provider may be offering, and the additional services and features they may receive as a result. Therefore, the segment of merchants that want to switch acquirers but do not mind keeping the same terminal is diminishing over time. Gradually, merchants will decide to switch providers based on the value-added services they provide beyond acquiring, and thus will attach less weight to having to switch their terminals if that is required to gain access to such services.

71. Furthermore, even for the segment merchants who want to keep the same terminal and are not swayed by additional services, terminal portability would disproportionately affect legacy providers. Since the differentiation of terminals is predominantly a feature of newer, innovative players in the market and less of a factor for incumbent players, this remedy would give them an unwarranted competitive advantage. Portability would facilitate switching mostly between these acquirers with legacy and less differentiated technology, creating a barrier to entry for new players with innovative business propositions.

72. Additionally, the interoperability of POS terminals would likely by accompanied by a further effort by providers to differentiate their terminals even more so that the benefit of switching terminals still outweighs the cost savings of keeping the same one. This is strengthened by the fact that merchants find value in the convenience of having a 'one-stop shop' supplier of payment services because it gives certainty as to who to contact in the event of technical difficulties. While this innovation would be a positive development, it would not remedy the feature of concern since providers could still lock-in merchants via long fixed terms that automatically renew.

73. Therefore, terminal portability would be limited to situations where a merchant would be willing to switch but for his onerous terminal hire contract or the fact that he recently just bought a terminal. In that situation, the merchants could still switch to the new PSP, enjoy the better service and/or pricing, and begin building a relationship with the merchant until their terminal contract ends. Nevertheless, in the interim, the merchant would not be able enjoy all the innovation and gains in efficiency that switching terminals could provide. Additionally, the merchant will still have to pay

termination fees if they decide they want to switch terminals before the contract expires. While the PSP could offer to reimburse the merchant's early exit cost as a form of buyout (an emerging strategy among ISOs) and would be better positioned to do so, these offers often include terms which enable the provider to claim back unrecovered reimbursement fees if the merchant terminates - another form of lock-in.

Question 19: Please explain whether you think POS terminal portability would be technically possible and explain your response. What other technical remedies are available to address the feature of concern?

74. SaltPay is in favour of the principle of interoperability and believes that the industry is naturally heading towards more standardisation as payment acceptance becomes increasingly commoditised. Nevertheless, forcing this process via regulation can have unintended consequences and is not a necessary or proportionate way of addressing the feature of concern.

75. While technically possible, the costs and practical implications of introducing POS Terminal portability are likely to be disproportionate to its potential benefits. Echoing the comments of multiple stakeholder responses to the Interim Report, introducing such a fundamental intervention would require extensive industry cooperation and the development of new centralised systems. As such, it would constitute a higher interference than a contractual solution. It would also unnecessarily delay the mitigation of the feature of concern when compared to tackling POS Terminal contracts directly.

76. There are three main areas of concern that lead to this conclusion, all three of which have also been raised by other respondents to the Interim Report.

77. Firstly, there remains extensive variation in the ways different elements of the POS Terminal ecosystem are implemented, especially between terminal manufacturers. Terminal manufacturers typically provide the accompanying terminal software that enables acquirers to remotely manage their fleet with necessary updates. The terminal software, however, is generally only able to manage the hardware of the same manufacturer. Thus, large standardisation measures would be required to ensure the interoperability of both terminal hardware and software, requiring significant investments from both the PSR and the industry in designing and implementing the standards.

78. Secondly, it is unclear how interoperability would ensure the maintenance of high levels of security. POS terminals are loaded with encryption keys that are specific to the merchant's acquirer, meaning only that acquirer can decrypt communications from that terminal. Terminal portability would require the development of a centralised system in which existing encryption keys could be securely and easily updated as merchants switch acquirers. A similar system enabling cross-industry management and migration would be necessary for the unique identifier (known as a Terminal ID or "TID") of each POS terminal. As above, both would require an extensive process to design and implement.

79. Thirdly, given the high and continuously increasing number of acquirers and payment facilitators in the market, a large centralisation project would be required to implement terminal interoperability. This would likely involve the creation of a new entity monitored by the PSR, and an extensive consultation process to agree on common standards that would take years to devise. Given this timeline and the continuing pace of change in the acquiring market, it is very likely that the market will continue to transform as this interoperability system is being developed, creating

the additional challenge that by the time standards are finally agreed upon, they are no longer fit for purpose.

80. While the market is likely to move towards greater standardisation in the operation of terminals, trying to artificially fast-track the process risks curbing innovation by locking in the status quo. Finally, an interruption of acquiring services can have devastating impact on merchants. As such, failures in implementing this technical remedy carry high consequences that are disproportionate to the remedy's benefit, especially when contrasted with the less onerous option of contractual remedies.

Question 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

81. Yes, we suggest this would be the most effective of the remedies put forward. Reforming POS Terminal lease contracts addresses the feature of concern at its core and is therefore the most impactful and proportional remedy the PSR could implement.

82. Long-term POS Terminal hire agreements that are bundled with card-acquiring agreements, whether through a single provider or through a partnership between an acquirer and a third party (typically an ISO), prevent micro-enterprises and SMEs from enjoying the technological advancements and efficiency gains that new providers are bringing into the market. They also contradict the spirit of *The Payment Services Regulations 2017* which has regulations designed to protect micro-enterprises from being subject to onerous contractual provisions by PSPs. Moreover, they are unnecessary for the business model of POS Terminal providers and enable them to exploit SMEs' inertia and recover their terminal cost multiple times over as contracts automatically renew for successive fixed terms.

83. Furthermore, they also act as a barrier to entry in the market. As recognised by the PSR in the Final Report, PSPs and ISOs are increasingly offering to buy merchants out of their current contracts by reimbursing them for their early termination costs (up to £3000 in certain cases). This often means such providers are operating at a net loss during the first months of their merchant relationships. Therefore, providers that can afford such customer acquisition strategies are at a distinct advantage compared to new players in the market. These new players cannot access merchants stuck in long-term contracts because they do not have the resources to buy out the merchant from their existing contracts. Additionally, some of these providers lock-in merchants into long-term contracts as well, to ensure they can make up this reimbursement costs, reinforcing the feature of concern. Without such contracts, this strategy would not be necessary and the market would become more accessible to new entrants, benefitting competition.

Micro-enterprises: The Payment Services Regulations 2017

84. As acknowledged by the PSR in the Final Report, there is a statutory right under regulation 51(1) of the PSRs 2017 that enables merchants to terminate their card-acquiring services contract at any time – unless they have agreed to a notice period of not more than one month. Regulation 51(3) also provides that, once the contract has been running for at least six months, the payment service provider can't apply a termination fee.

85. This applies with no option to derogate if the payment service user is a consumer, small charity, or micro-enterprise. The FCA defines micro-enterprises as enterprises which (a) employ fewer than

10 persons and (b) has a turnover or annual balance sheet that does not exceed €2 million[5]. For payment service users larger than micro-enterprises, the payment service provider may agree with business customers to derogate from the regulation and utilise different terms in relation to rights and obligations (referred to as the 'corporate opt out'), including longer initial terms and termination rights. This has led acquirers to adopt different card-acquiring services contracts for merchants of different sizes.

86. The purpose of the regulations is to protect users from getting tied into long-term contracts and onerous termination fees. Article 38(2) of PSD2 afforded Member States the discretion to apply the provisions to micro-enterprises in the same way as to consumers, which the UK chose to exercise. The inclusion of micro-enterprises can thus be interpreted as an acknowledgement of the PSR's feature of concern identified in the Final Report, namely that because of a limitation in time, resources, and bargaining power, the majority of merchants in the UK are not well-positioned to secure a favourable deal with their payment service provider. A consequence of this is that the merchant will not exhibit the switching behaviour indicative of a healthy and competitive market.

87. Importantly, however, these regulations do not cover terminal lease contracts, which remain unregulated. In fact, Schedule 1 Part 2(j)(vi) of the Payment Services Regulations 2017 specifically exempts from their scope the provision and maintenance of terminals and devices used for payment services.[6] This is because terminal providers are not classified as payment service providers, despite the fact that the provision of card-acquiring services necessitates a POS device. As a result of this regulatory gap, POS terminal hire agreements that are offered in combination with acquiring contracts have the effect of tying in merchants into their (regulated) acquiring relationship. This phenomenon has been identified by the PSR in the Review.

88. For example, we have seen micro-enterprises that have a 6-month initial term with their acquirer but have also signed an agreement with the acquirer's ISO for a terminal lease lasting 48 months with high termination costs. Since the ISO's terminal only works with their partner acquirer, the *de facto* consequences of terminating their acquiring agreement are the POS hire agreement's termination fees (which could present a high cost for the SME). The lack of regulatory oversight over ISOs had already been brought to the attention of the PSR by another industry stakeholder[7] that stated their concerns that the "lack of regulatory oversight of ISOs has resulted in a proliferation of ISOs, especially small organisations, that provide a low level of service and typically include tie-ins and cross-subsidisation in their contracts which do not serve merchants well."

89. Therefore, the length and terms of POS terminal hire contracts nullifies the regulatory protections micro-enterprises should be receiving according to the PSRs 2017. The PSR thus needs to act to apply the same requirements on POS terminal hire contracts as acquiring contracts so that they can be agreed to and terminated on the same conditions. This constitutes the basis by which the PSR can *legally* tie these *effectively* tied agreements. In lieu of regulatory change of the PSRs 2017 which would require a legislative process, the PSR can utilise its FSBRA powers to introduce this requirement as a competition remedy. This is an important opportunity to ensure that the legislative objective of the above regulations, as approved by Parliament, are fulfilled for micro-enterprises.

SMEs: Ending Automatic Renewals for successive fixed terms.

[5] FCA Handbook "micro-enterprises"
[6] The Payment Services Regulations 2017 - Schedule 1
[7] PSR Card Acquiring Market Review Final Report Consultation Responses Non-Confidential (Nov 2021), Global Payments UK, Page 127

90. Furthermore, for merchants that do not qualify as micro-enterprises but are nevertheless subject to the feature of concern identified by the PSR, we suggest implementing a remedy that prevents the automatic renewal of POS terminal hire agreements into successive fixed terms.

91. Rather than requiring contracts to have a strict end-date, the PSR would instead be imposing limits on the length of any auto-renewal period to a one-month rolling term only. Therefore, if a merchant is coming to the end of a 24-month contract, instead of automatically renewing for a further 24 months, the contract would simply be replaced by a one-month rolling term agreement with no termination costs. The contract may then be effectively terminable-at-will by the merchant, while giving them flexibility as to if and when they want to change their POS terminal lease arrangements.

92. There are several advantages to this approach. Firstly, it avoids the blunt instrument of putting a fixed end date for all terminal hire agreements. This gives SMEs, which tend to have more time and resources to dedicate towards procuring payment services, more flexibility as to what duration of an initial term suits them best. Some merchants may prefer the stability of a long-term contract and wish to lock in a good deal. Others want to maintain the agility to move providers after six months if they find a better deal.

93. This is important to recognise given the differentiation between SMEs within the £50 million annual card turnover threshold. What works best for an SME with £5 million card turnover in a stable sector may be different than for an SME with £50 million annual turnover in a fast moving one. The need for a different solution than the one proposed for micro-enterprises pertains to the differences in bargaining capacity of merchants, which increases as the merchant grows in size and resources. As such, providing more flexibility to merchants in the £5M to £50M range is a more proportional remedy as it accounts for the fact that the feature of concern identified by the PSR is a decreasing function of merchant size.

94. Secondly, the remedy affords this flexibility and freedom of choice for SMEs at the point of agreement, while still preventing PSPs from exploiting merchant inertia when the agreement is coming to an end by locking the merchant in a successive fixed term. As such, SMEs at the end of their initial term are free to look into the market and find a better deal, enjoying the innovation and gains in efficiency in the market. It also ends the ability of POS terminal providers to essentially recoup the cost of their POS terminals multiple times over through successive renewals. Importantly, SMEs would still be able to agree to a new initial term with their current provider, but this would an *active* renegotiation rather than a *passive* renewal.

95. Thirdly, it also avoids affecting providers that do not offer fixed-term contracts for their merchants. Imposing an end-date on all POS Terminal contracts would capture agreements which have no initial term or termination fees, but merely roll from month to month, so that the SME is free to exit on one month's notice. As noted by other stakeholders in their response to the Interim Report, for those merchants there is no concept of a contract expiring. Artificially imposing that concept would disrupt a relationship that does not exhibit the underlying features of the PSR's concern, namely the automatic renewal of contracts for successive fixed-terms and the associated termination costs.

96. Lastly, this remedy also addresses the concern by multiple respondents to the Interim Report that putting an end to automatic renewal could lead to a sudden interruption of service. In this case, the service would continue to be provided without interruption or any action needed by the merchant, but the nature of the agreement would change after the initial term, however long that is. This also affords SMEs greater flexibility when in the process of considering switching to a different provider.

97. For example, under these circumstances, a merchant is more likely to consider going to another provider after their initial term expires and they are no longer subject to any termination fees. The merchant may then begin a process of negotiation with multiple providers to try and find the best deal for them. In this interim, they still need to be able to accept card transactions, and the rolling contract enables them to do that without committing to a further term. Even when the merchant does decide with one provider, the process of onboarding with their new provider may be uncertain and subject to errors, so it is important that they can keep using their current provider.

98. This solution could tie in well with the PSR's proposed trigger messages remedy. The PSR could oblige providers to offer clear information about how much time they have left on their initial fixed term, what the early termination cost would be if the merchant terminated in that month, and the flexibility they will have once the initial term ends. This would increase SME engagement throughout their initial term, and more able to make a trade-off between switching within a fixed term and paying the termination fees or waiting for their initial term to end when they are free to do so.

Addressing the risk of price increases

99. Multiple respondents to the Interim Report stressed that shortening the maximum term of POS terminal hire contracts would lead ISOs to frontload the terminal cost to protect against the risk of not being able to amortise the cost over a longer period, thus leading to higher monthly rental fees and terminations costs. This argument fails to consider two important points.

100. Firstly, it assumes that POS terminals cannot be reused and thus their cost must be recouped via a single merchant. For example, one of the respondents to the Interim Report stated:

> "[POS terminals] are high-depreciation items as they will almost certainly require refurbishment (at least) and need to be data cleansed upon return. Acquirers are also reluctant to allow a used terminal to be logged in to their gateways, due to perceived security risks. Consequently, returned terminals have little value other than for spares."[8]

101. However, not reutilising POS terminals is a choice rather than a technically unavoidable reality. Multiple players have terminals refurbished once a relationship with a merchant ends so they can be reutilised, thus maximising the value that can be extracted from the hardware. [redacted] Furthermore, there are players in the market which offer no initial term and no termination fees on their terminal hire contract on the basis that if the merchant decides to terminate the agreement, their POS Terminal can simply be collected and reutilised with another merchant.

102. If the length of fixed term contracts is reduced and their accompanying termination costs limited, it is nevertheless possible some ISO will continue to recoup the same cost within a shorter period. If they do, they will be outcompeted by providers that can reuse terminals and thus offer lower fees and no contracts for merchants, which will in turn pressure them to lower prices.

103. Notably, this remedy would incentivise the reutilisation of POS terminals, reducing hardware waste and making the industry more environmentally sustainable. An industry practice could evolve

[8] Stakeholder Submissions to the Final Report Consultation, p. 222

where terminals receive different refurbished grades and can be sold to merchants with less advanced needs at a lower price. This could lead to lower prices and more options for merchants, thus addressing the feature of concern, while also fulfilling the PSR's commitment to scrutinise any environmental issues related to payments as part of its Strategy.

104. Moreover, suggesting ISOs must be able to recoup their terminal costs via long contracts and termination fees to have a sustainable business model is invalid. It does not sufficiently account for the inherent level of risk in every business transaction. Even without the ability to charge termination fees after an initial term, ISOs can still recoup their cost via monthly rental fees as long as the merchant does not churn, suggesting they are satisfied with the service provision. When coming to an agreement with a POS terminal provider, the merchant incurs the risk that they might be dissatisfied with the product or service but are still liable to pay within the initial term.

105. Similarly, it is valid for ISOs to incur the risk that once the merchant is free to leave, it will have to be the quality of their offering that prevents the merchant from churning and enables the ISO to receive more terminal rental fees. This incentivizes ISOs to diversify their revenue mix and increasing their quality of service by providing value-added services to merchants [redacted] he sustainability of a business model shouldn't be anchored on lock-in strategies. If ISOs have a beneficial impact in the card-acquiring market, then they'll be able to diversify from terminal income to other sources of revenue.

106. Secondly, even if one accepts that reducing the length of terminal hire contracts will raise the monthly rental price, this can still lead to a lower overall cost paid by merchants. Most ISOs include termination fees in their contracts which are simply the monthly terminal rental multiplied by the remaining months on the fixed term. For example, if a merchant wants to terminate their contract and move to a different provider on the 4th month of a 24-month contract, they will still have to pay the terminal rental for the remaining 20 months. Equally, if a merchant wants to quit on 4th month of a 6-month contract, they will be liable for the remaining two months. No matter how long the initial term is, multiple players in the market simply ensure they will get the full payment for the POS Terminal, so either way they don't bare any risk. Condensing the time available for this claimed cost-recovery does not leave a merchant or ISO worse off.

107. A potential increase in monthly rental fees because of the above measures is likely to lead to a reduction in the total amount merchants are liable to pay for terminal hire services. Higher terminal fees within the 6-month initial term will increase merchant's price salience, i.e., their perception of the price-quality trade-off of the POS terminal and its accompanying service. This will in turn increase the price sensitivity of SMEs leading to a more elastic demand for POS terminals, encouraging merchants to substitute towards cheaper providers and making the market more competitive.

Question 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

108. The industry is increasingly moving from merely enabling payment acceptance towards providing value-added services to merchants such as analytics and automation tools on top of acquiring. As such, we expect the desire for merchants to switch to increase as they come to expect more from PSPs than just card-acquiring. The problem, however, is to what extent this desire to switch will continue to be curbed by the onerous early termination fees merchants face when they switch. When looking in particular at underserved areas outside large metropolitan cities, most

merchants are still unable to enjoy the innovation and gains in efficiencies that new providers can offer them. A significant reason for this is the fact these SMEs remain locked into long-term contracts.

109. As the industry evolves towards providing merchants with an ecosystem of value-added services on top of payments acceptance, the rationale for a contractual remedy that prevents long-term lock-ins becomes stronger. Innovative providers that embrace this shift will be able to maintain their merchant relationships without fixed-term contracts because the merchant values the convenience and additional services they receive from their 'one-stop shop' supplier.

110. Under this new paradigm, merchants would stay with a provider due to the quality of their services rather than due their restrictive contractual obligations. This will also be accompanied by the continued rise in Independent Software Vendors (ISVs) that will either partner with PSPs to integrate their services onto their ecosystem, or independently supply it to merchants. Therefore, addressing the feature of concern serves to hasten this shift in card-acquiring, the consequence of which will be lower prices for payment acceptance as that becomes a basic service, and an increase in the access micro-enterprises and SMEs have to new innovative tools and analytics.

Question 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

111. The introduction of POS terminal portability would likely have significant negative commercial implications in the payments value chain. For example, the generation of additional costs relating to enabling, administering, and managing incoming and outcoming POS terminal transfers would impact the prices of POS terminal provision. The necessary investments of both time and money from industry participants in devising the centralised interoperability system would likely favour large providers. They would be able to have more significant input into its design and implementation, creating a risk of undue influence and the creation of standards that favour incumbents and curb innovation. Similarly, these additional costs would also constitute a barrier to entry to new providers.

V – Additional Remedy: More SME engagement

113. One of the insights we have gained in our conversation with SMEs and merchant associations is that while there are significant *actual* barriers switching as identified above, there is also a strong *perception* amongst small retailers that switching will simply be too much of a hassle or too complicated to achieve, even in cases it may not be. This point was also highlighted by the Association of Convenience Stores in the response to the Interim Report.

114. To address this, the PSR should take lessons from the Current Account Switching Service established in 2013. The service is supported by regular, high-profile, cross-channel marketing and communications campaigns, with a dedicated consumer-facing website (currentaccountswitch.co.uk). Similarly, the PSR should begin a campaign targeted at SMEs, especially in underserved areas of the UK, that discusses the potential benefits to switching providers and how it's been rendered more convenient by the PSR's remedies. This will help address the risk that even after the PSR implements its changes, many small merchants will remain unaware of their new rights and their inertia will continue to be exploited.

115. Furthermore, there is also a need for more continuous SME engagement. We are concerned the PSR did not do enough to understand the questionable market practices which contribute to merchant dissatisfaction and the perception that switching is cumbersome. Among many others, these include providers that mis-sell the length of their contracts and associated termination fees, change termination notices to ensure a merchant automatically renews, and deliberately introduce unnecessary friction in the termination process even after notice has been given.

116. Yet, despite these problems and the ubiquity of card-acquiring in the UK, Financial Ombudsman data from Q3 2021 shows only 131 enquires made regarding "Merchant Services", the lowest among commonly used financial services.[9] Therefore, as part of its SME engagement efforts, the PSR should consider how to encourage more SMEs to submit complaints. This could be achieved by introducing a dedicated complaints route for card-acquiring in combination with the Financial Ombudsman. It could also be coupled with the development of a voluntary code of conduct for PSPs published on the campaign's website and disseminated through any trigger messages or summary boxes the PSR introduces.

[9] Financial Ombudsman - Quarterly complaints data (Q3 2021/22)

VI - Issues not addressed by the remedies consultation

118. [redacted]

119. [redacted]

120. [redacted]

121. [redacted]

122. [redacted]

123. [redacted]

SaltPay

124. [redacted]

125. [redacted].

Scottish Grocers' Federation (SGF)

PAYMENTS SYSTEMS REGULATOR

CP22/1: CARD-ACQUIRING MARKET REVIEW INITIAL REMEDIES CONSULTATION

RESPONSE FROM THE SCOTTISH GROCERS' FEDERATION

The Scottish Grocers' Federation (SGF) is a trade association for the Scottish Convenience store sector. There are 5,037 convenience stores in Scotland, which includes all the major symbol groups, co-ops, and convenience multiples in Scotland.

SGF promotes responsible community retailing and works with key stakeholders to encourage a greater understanding of the contribution convenience retailers make to Scotland's communities. In total, convenience stores provide over 42,000 jobs in Scotland.

Convenience stores trade across all locations (rural/ suburban/ urban) in Scotland, providing a core grocery offer and expanding range of services in response to changing consumer demands close to where people live. The valued services provided by local shops include mobile phone top-up (82%), bill payment services (76%), cashback (70%), free to use cash machines (49%) and branches of the Post Office network (24%).[1]

Scottish convenience retailers also have EPoS (73%) and provide payment methods which respond to the needs of their customers with stores primarily offering the following payments methods: Cash (99%), Debit card (96%), Credit card (94%), Contactless payment and Mobile payment (84%) and Card not present transactions (41%).[2]

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The average basket spend is £10.82 and access to cash remains a valued service for customers with Scottish convenience stores offering free-to-use cash machines (49%) and charged cashed machines (23%).

Over the last year, convenience stores in Scotland have invested £62m in their business. During this same period, the UK convenience sector contributed over £9.8bn in GVA and over £8.7bn in taxes. It also invested £534m and is more relevant than ever to every type of customer and has key social benefits and is of key economic value to the economy.

SGF welcomes the opportunity to respond to the Payment Systems Regulator's (PSR) Card-acquiring market review initial remedies consultation.

[1] Scottish Local Shop Report 2021

[2] Scottish Local Shop Report 2021

CONSULTATION QUESTIONS

Q1 - Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Yes, summary boxes would be a useful source of key information and data which merchants could use to help inform any decisions they may take as to the most suitable card acquiring services for their business requirements.

Q2 - Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

Yes, bespoke merchant summary boxes would be helpful in providing tailored information to the merchant as it would reflect pricing and non-pricing information which may be more important and directly relevant if it is informed by the card acquiring services currently used by the merchant, particularly if it sets out alternative options which might result in a more competitive contract and tariffs. This would help improve merchant engagement given the customised nature and relevance of the information given to them.

Generic information to customers on provider websites would enhance merchant engagement as it would provide transparency and clarity around pricing and service options around card acquiring services and give merchants confidence that they were making informed decisions which would benefit their business.

Q3 - Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

We agree with the consultation that the summary boxes should include information for example such as: pricing and non-price elements, service options, contractual end and renewal dates, how a merchant may switch service provider and having information presented in a clear and accessible way so that merchant may more easily identify and understand what card acquiring service may be best suited to their business.

Q4 - Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Convenience retailers would benefit from the implementation of summary boxes given the pressure on their time – summary boxes would provide them with the relevant information to help them to make informed choices about the card acquiring services which would best suit their business activities.

Summary boxes would also enable information to be presented in a clear, concise, and transparent way which would help decisions to made more swiftly and therefore be less time intensive to busy retailers.

SGF have no specific preference around boxes being targeted and designed to support any group of merchants however they should be informative, contain relevant data and be easily understood.

Q5 – Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

SGF would see the introduction of DCTs as a positive step to enable merchants to have access to straightforward, accessible information and help them to make informed choices – based on the latest available data and prices – which would get them best possible deal and importantly, card acquiring services which offer the functionality and flexibility which suits their business model.

Q7 - What information do you think should be provided to merchants by DCTs?

A key element will be that digital comparison tools (DCTs) can provide relevant and accurate pricing and non-price information to enable merchants to be able to compare the market and see what is available. There should also be confidence that any information which available on DCTs is up to date at the time of viewing given that merchants may use the information provided to sign up to or change card acquiring services.

Q8 - Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

Yes. If the information hosted by DCTs is recognised as being helpful, accurate and based on the latest information from providers of card acquiring services, this will help promote their use by merchants as well as stimulating the development of DCTs going forward.

Q9 - Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

Yes – consideration would however need to be given to how in practical terms this would be done in an efficient and effective manner.

Q10 - Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

If DCTs are recognised as a reliable source of accurate and up to date information, which can help merchants make informed decisions around the card acquiring services best suited to them and provides them with value for money, this will help build confidence in such an online service.

Q11 - Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Convenience retailers work extended hours and as highlighted in our Scottish Local Shop Report 2021, 10% of Scottish shop owners work more than 70 hours per week. If DCTs can help them to make informed and beneficial decisions for their business but in a time efficient way, DCTs could be a key resource for them when it comes obtaining the best deal possible around card acquiring services.

Q12 - Do you agree that provision of information by providers of card acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

Yes. Convenience retailers are having to operate in a demanding trading environment given the impact of the pandemic and for many the challenge has been just to remain open and to have viable businesses.

Given therefore the time-consuming nature of running their stores, having providers of card acquiring services prompting merchants would be helpful step and a call to action for the merchant to take any necessary action.

Q14 - What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

SGF agree in principle that delivering trigger messages would be a good idea. This would function as a call to action for merchants so that they can reflect, assess, and decide whether their current provider of card acquiring services still meets their requirements for example, whether that be value for money in terms of price and or the range of non-price service elements available to them.

Given the size and nature of businesses that would potentially benefit from trigger messages, further consideration would need to be given as to how far in advance they should be issued so as optimise merchant engagement - what would represent sufficient advance notice for one business may not necessarily be suitable for another. However, as a general guide we would suggest issuing a notification three months prior to the ending of the contract minimum term with possibly one final reminder four to six weeks before the end of the initial term.

Q15 - Please comment on the content of potential merchant prompt messages.

In general terms, the messaging must be clear, easily understood and set out the key pricing and non-pricing elements in a way which supports convenience retailers to make informed decisions. The prompt messages should also direct merchants to relevant guidance and support features to help them should they wish the switch card-acquiring services.

Q16 - What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

We agree that publishing information on the provider's website that the customer sees when they log into their account is good approach given that it will be seen as a seen as an accepted and trusted source. We also believe that e-mailing merchants trigger messages would also be an important way of reaching them as they can access them while on the go (e.g. Convenience retailers may be working in their stores, serving customers, or going to wholesalers or cash and carry throughout the course of their day and so an e-mail would be a helpful call to action).

Q17 - Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Convenience retailers would be one of those groups of merchants to most benefit given the nature of their business.

Our Scottish Local Shop Report 2021 shows that 76% of Scottish stores in the convenience sector offer bill payment services. Also, Scottish convenience retailers have EPoS (73%) and provide payment methods which respond to the needs of their customers with stores primarily offering the following payments methods: Cash (99%), Debit card (96%), Credit card (94%), Contactless payment and Mobile payment (84%) and Card not present transactions (41%).[3]

[3] Scottish Local Shop Report 2021

Card acquiring services therefore play a key part in their business model, the way they operate and the how they receive payments from customers. Getting value for money from the key services offered by card acquirers is therefore essential and receiving trigger messages will encourage engagement in this process while ensuring they take the time to secure the best outcome for their business.

Q18 - To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

SGF agree that POS portability should be explored and that PSR investigate whether technical solutions are available to facilitate POS terminal switching thereby helping to address the current difficulties that are experienced when merchants wish to switch their provide of card-acquiring services but who refrain from doing so due to the costs and practicalities of exiting their POS terminal leases.

Please also see our answer to question 20.

Q20 - Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Our Scottish Local Shop Report 2021 indicates that 73% of Scottish stores in the convenience sector use EpoS.

SGF believe that there should be full flexibility available to merchants in relation to POS terminal leases – with no fixed terms or exit penalties – to enable them to switch provider of card-acquiring services where a more competitive offer and beneficial range of services are available to them.

Q23 - Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

SGF agree that monitoring merchant and consumer outcomes in the card-acquiring market could have benefits in terms of receiving feedback to help inform future actions and that the utilising merchant surveys and data collection from providers would be one of the ways to start doing this. We would suggest that consideration be given to collecting this data on a quarterly basis.

Scottish Grocers' Federation
April 2022

Stripe

PSR Acquiring Market Review - Consultation on Remedies - Stripe Response

Introduction

Please see Stripe's response to the Acquiring Market Review Consultation on Remedies below.

We don't seek to reiterate points made to the PSR in prior responses but would emphasise that this is a complex industry. The guiding principle for the PSR's approach to remedies should be that they lead to better outcomes for merchants. Absent clear and reasoned evidence of those better outcomes for merchants, the proposed remedies are likely to involve extensive costs across the industry for limited tangible benefit. Of course, the onus is on the PSR to obtain and validate that evidence but we look forward to working with the PSR as it develops its approach to remedy design and implementation, and assisting where we can be helpful.

PSR Questions and Stripe Responses

PSR question	**Stripe Response**
QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?	*As the PSR noted in its final report, Stripe provides transparent pricing for merchants today, with a pricing structure that is "simpler than most other acquirers". Our blended rate for UK merchants is publicly available on our website at https://stripe.com/gb/pricing and small and medium-sized merchants can start accepting payments using our advertised blended rate within minutes. We aim to be as transparent and straightforward as possible in our pricing.* *However, as we have noted previously to the PSR, non-price factors such as technology quality, reliability, authorisation rates, customer service and innovation make up the overall value proposition of a payment provider and are hugely important to our merchants. Merchants do not select or switch solely based on core acquiring price. This is made clear in researched industry publications such as the Forrester Wave report - interviews with merchants as part of that report make clear that merchants carefully consider a wide range of non-price factors such as geographic availability, payments performance, payment method coverage, integration with existing systems and availability of other non-payments solutions. Forrester Wave* grades payment providers on a wide range of aspects such as core payments performance, geo reach, partner ecosystem, customer support, payment method onboarding, vision, etc.*

stripe

	Given the importance that merchants and prospective merchants attach to these (and other) non-price factors, it is important to clarify how the PSR intends to deal with these facets of the offer from payment processors. Providing clear and comparable non-price information without creating overly complex and detailed summary boxes will be a delicate balancing act and how it will be successfully achieved is not clear to us at this point. **Please let us know if you are not familiar with the Forrester Wave report and would like a copy.*
QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?	*We believe that generic summary boxes provided online for users and prospective users can be a helpful tool in order to understand and compare payments service offerings. That is one of the reasons Stripe publishes its blended pricing rate transparently and clearly on its website.* *A bespoke summary box could be a useful tool, for example to help existing customers seeking to understand the cost of their payment processing service and what they receive in return.* *However, the value of summary information will depend on the combination of services each user wishes to access: this is an important aspect of Stripe's service and offer to merchants. A key challenge for the PSR will be to devise a format that is sufficiently standardised to enable cross-provider comparison, but also accurately reflects the bespoke service a user or prospective user can access from each provider.*
QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.	*The summary boxes should include a comparison of the provider's blended rate. We believe it will be challenging to present comparisons for more complex charging structures given that these are generally priced by the industry on a bespoke basis.* *A minimum level of non-price information should also be incorporated. This could include important factors (or a subset of factors) that matter to merchants such as:* - *Reliability (uptime)* - *Performance (authorisation rates)* - *Additional services that can be accessed by the merchant from the acquirer (eg fraud detection)* - *Standard of technology and documentation/ease of integration (which will reduce user's costs on implementation and maintenance)* - *Reduced costs (time and financial) due the PSPs use of automation (such as fraud management, smart retries etc)*

	- *Partnerships (where the PSP has partnerships with other technology partners which may be more efficient for the user, where for example their PSP is integrated to their accounting software - see https://stripe.com/en-gb/partners/apps-and-extensions)*
QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.	*In our anecdotal experience, small and medium-sized businesses and self-serve users are likely to benefit most from the provision of simplified summary boxes. However, we have not seen evidence to support this view and the PSR should consider it carefully.*
QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.	*While we have limited experience of DCTs, we note that their impact relies on the ability to provide standardised comparable information which can be easily understood by customers and offers a fair comparison of the service offerings being compared. Given the diversity of service offerings by acquirers, this level of simplification and fair comparison may be difficult to achieve in the UK acquiring market.* *We would note that in more complex markets - for example for insurance products - easily quantifiable information including price often needs to be accompanied by independent service quality assessments (e.g. Defaqto ratings) in order for customers to be able to make informed decisions.* *We do not think it will be straightforward to create a DCT that would be helpful for merchants in searching and switching for card-acquiring services.* *We also note that there have been competition issues arising from DCTs in other industries - see eg. https://www.gov.uk/cma-cases/price-comparison-website-use-of-most-favoured-nation-clauses which would need to be monitored very carefully if an industry DCT were to be established.*
QUESTION 6: What do you think are the main obstacles to	*See above.*

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development of DCTs in the card-acquiring market, and how could these be overcome?	
QUESTION 7: What information do you think should be provided to merchants by DCTs?	*The information provided by a DCT should be limited to factual and quantifiable data that is publicly available (e.g. price). Customers and prospective customers should be directed to providers' websites for further information.* *As we note, price is not the only consideration for merchants when selecting a payment processor, but non-price elements will be difficult to capture in a simple DCT format. We have previously provided detailed commentary to the PSR on the importance of non-price factors in card acquiring.*
QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?	*As noted above, we do not have detailed experience of or insights on DCTs. We do have reservations about the ability of DCTs to compare factors beyond the most simple blended pricing across payment providers. It is important that merchants are not driven into making a choice of provider based solely on simplified pricing information, which could lead them to adopt services that are not suitable for their needs, or substandard.*
QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?	*We suspect that merchants - especially larger ones - would be reluctant to share this data with a third party DCT. We would encourage the PSR to engage with merchants on this question. It would also require the DCT to have very robust data and cybersecurity controls.*
QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring	*No response.*

sector, and what could be done to improve this.	
QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.	*No response.*
QUESTION 12: Do you agree that provision of information by providers of card acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?	*We do not know what impact a prompt might have on merchant engagement. Our experience is that users of Stripe's services are engaged and aware of other options in the market.* *Our perspective is that of a payment provider focused on the online acquiring segment. SME merchants in the online space enjoy strong levels of competition from both technology-first providers as well as legacy acquirers. Users benefit from ease of price discovery, clear information about available features, ease of switching and generally do not require any form of hardware - which facilitates easy switching.* *Moreover, as we have noted previously, the vast majority of Stripe users - especially smaller and self-serve merchants - are not tied into any Stripe contract in terms of there being no minimum term, no subscription fees, no minimum volume.*
QUESTION 13: Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?	*As we have stated to the PSR previously, we are not opposed to some form of prompt for merchants to periodically consider their current arrangements and be able to change them, but we do not think that mandating fixed term contracts or banning evergreen contracts is a proportionate or effective measure to achieve this.* *The vast majority of Stripe users - who simply integrate Stripe into their website/app and use it on a "pay as you go" basis on our standard terms, with standard pricing (clearly available on our website) - can cease using Stripe services at any time without penalty or contractual limitation. For those merchants there is no concept of a contract expiring and we envisage potential harm to our merchants by artificially imposing that concept.*

	For the minority of Stripe users on negotiated contracts with a specific duration, it is important to avoid any intervention that would imperil auto-renewal, which is useful to merchants and avoids the potential for significant disruption to merchants where a contract ends without a new contract having been put in place. Merchants always have freedom to terminate by providing the agreed notice to Stripe.
QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.	*The vast majority of Stripe's merchants do not have a fixed term contract.* *In our view, the anniversary of signing up to an acquiring service is the logical time for a prompt to be issued. We believe that prompts should be issued every two years, to give merchants sufficient time to assess and understand the service they are receiving. As we have noted previously, acquiring is not comparable to, for example, an insurance market, where prices may increase significantly on a yearly basis. Comparable services from our merchants' perspective may include services such as CRM software, data processing and storage, or cloud services.* *It is preferable that the timing of prompts is aligned with the individual merchant (e.g. anniversary of signing up) rather than issuing reminders to all merchants on the same day.* *For the minority of Stripe users on fixed term contracts, we suggest that 90 days before term end is a reasonable and logical point to issue a prompt.*

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:
• Information on the purpose of the communication
• How much the merchant paid for their card-acquiring services in the previous 12 months
	We suggest that the information in a prompt message is kept focused and limited to a small number of fields. This is necessary to avoid information overload, which is likely to reduce rather than increase user engagement.
	
	The prompt should therefore focus on a set of clearly defined and measurable price and nonprice factors. This could focus on aspects such as:
	● *the volume of transactions processed*
	● *the fees paid for that service*
	● *Non-price elements could include aspects such as:*
	    ○ *Reliability (uptime)*
	    ○ *Performance (authorisation rates)*
	    ○ *Additional services that can be accessed by the merchant from the acquirer (eg fraud detection)*
	    ○ *Standard of technology and documentation/ease of integration (which will reduce user's costs on implementation and maintenance)*
	    ○ *Reduced costs (time and financial) due the PSPs use of automation (such as fraud*

• The amount that the merchant would save by switching to the lowest-priced option • Information on non-price benefits of switching • Information on POS terminal switching • Information on how switching works, and what merchants should do if they wish to switch • A call to action	*management, smart retries etc)* ○ *Partnerships (where the PSP has partnerships with other technology partners which may be more efficient for the user, where for example their PSP is integrated to their accounting software - see https://stripe.com/en-gb/partners/apps-and-extensions)* *We suggest that the prompt includes a note that other acquiring options are available. If a call to action is included, this should feature a warning that the lowest priced option might not provide the same product features or reliability.* *More general principles rather than specifics may be preferable given the range of offerings across the industry, which will clearly present significant challenges to implementation and comparison.*
QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.	*Our experience is that online dashboard notifications are the best method of delivering messages to users. We do not use SMS/letter notifications. Email has a higher cost and is more resource intensive than dashboard notifications. It also suffers from issues such as bounce-back and low open rates. Our experience is that users will often not open emails which look like terms and conditions updates or similar.*
QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.	*We have not seen any evidence on this question so do not have a firm view at this stage of the remedy design. Our assumption is that small merchants would benefit more than larger merchants but the PSR should consider this in detail.*
QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by	*Stripe does not enter into POS terminal lease agreements with merchants. Stripe's POS terminal contracts provide for the sale of POS terminals (1) to merchants or (2) to platforms for resale to merchants.* *Scope to mitigate the impact of the feature of concern by ensuring POS terminal portability may be*

(a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.	*limited due to the technical challenges faced by the industry, as noted below.*
QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?	*POS terminal portability enabling a merchant to use the POS terminal sold by Stripe with a new card-acquirer is not currently technically feasible. As in-person payments must follow strict rules to meet PCI compliance, PCI certifications, and EMV certifications, Stripe offers pre-certified readers to enable payment acceptance through the Stripe Terminal SDK.* *Stripe merchants that avail of ancillary services from platforms (users of Stripe Connect) are not restricted from switching between platforms while continuing to use the same POS terminals. This is technically feasible because the underlying acquirer-merchant relationship and technical integration is maintained.* [✄]
QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?	*As noted above, Stripe does not enter into POS terminal lease agreements with merchants. Stripe's POS terminal contracts provide for the sale of POS terminals (1) to merchants or (2) to platforms for resale to merchants.*

stripe

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?	[✂]
QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.	*As noted above, Stripe does not enter into POS terminal lease agreements with merchants. Stripe's POS terminal contracts provide for the sale of POS terminals (1) to merchants or (2) to platforms for resale to merchants.* *In our view, it appears likely that acquirer-to-acquirer POS terminal portability would have a commercial impact on POS terminal providers and the related value chain. This could take the form of additional ongoing software and services costs to enable such integrations, as well as costs arising from device reconfiguration (e.g. device encryption key re-injections).*
QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data	*No response.*

collection from providers), and how frequently? We are also consulting on our approach to the CBA for remedies (see the annex). We would be grateful to receive responses from all stakeholders on these questions.	
QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.	*No response.*
QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.	*No response.*
QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.	*No response.*

Invitation to providers of card-acquiring services and POS terminal lease providers to submit specifications for remedies to address features of concern in the card acquiring market

stripe

Invitation to providers of card-acquiring services to submit specifications for summary boxes	
To progress consideration of summary boxes as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should specify necessary operational and systems changes. Please include indicative mock summary boxes with your proposal, both in bespoke and generic formats. Submissions may include proposals for viable additional or alternative measures to address the features of concern. Please supply supporting evidence of why they would be effective.	*No response.*

Invitation to providers of card-acquiring services to submit specifications for stimulation of DCTs	
To progress consideration of DCTs, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should address the need for comparable price and service data to be made available to DCTs so they can provide an accurate comparison service to merchants. Submissions should also specify necessary operational and systems changes to achieve this.	*No response.*

Invitation to providers of card-acquiring services to submit specifications for contract trigger messages	

stripe

To progress consideration of contract trigger messages as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should specify necessary operational and systems changes. Submissions may include proposals for viable additional or alternative measures to address the features of concern. These should be accompanied by supporting evidence of why they would be effective.	*No response.*

Invitation to providers of card-acquiring services and providers of POS terminal leases to submit specifications for solutions to prevent POS terminal lease contracts raising barriers to switching between card acquirers	
We are inviting providers of card-acquiring services and providers of POS terminal leases to submit specified solutions for this. Submissions should include an assessment of solutions to address technical barriers to switching, including POS terminal portability, and explain any operational and system requirements required to deliver them, with costing information. Submissions may include proposals for viable additional or alternative measures to address the features of concern. These should be accompanied by supporting evidence of why they would be effective.	*No response.*

Stripe
6 April 2022

SumpUp

Questions for SumUp

Summary Box

1. **What are your initial views on bespoke and generic summary boxes?**

   SumUp is very supportive of the generic and bespoke summary boxes remedy. We believe that this will help merchants to review the provider they currently use and evaluate other offers.

   SumUp believes that the summary boxes will promote transparency in the pricing structure in the acquiring market.

   - **Practical design issues/challenges of implementing these remedies and for them to be effective?**

   We believed that for the summary boxes to be practical, the prices need to be a *"like-for-like"* comparison for pricing structure, product capabilities and features.

   The main challenge while creating the box would be standardising comparison prices. MDR is very complex to rationalise to a single price point because of the different fees by card, acquiring, type, merchant mix, etc. To simplify the information, presenting a single blended price, including all rental and monthly fees blended into the MDR, could be the best option. Another solution could be setting an average MDR around the UK per type of merchant, scale and size.

   For the bespoke boxes, the challenges would be retrospectively mapping prices and fees to build individual boxes for the merchants. Acquirers often have different price structures for different types of merchants based on size and volumes, and therefore fees may vary. We understand that this can create complexities while creating the box.

   Ideally, the boxes should include all costs; price of purchasing hardware; monthly terminal rental (POS or reader); terminal/software management system fee (where applicable); early exit fee, etc.

   - **Major cost categories to implement it (one-off vs ongoing costs)?**

   The costs of implementing this remedy will depend on the solution. The main costs will involve, at minimum, an analysis of merchant base, online vs offline, calculating the average fees, etc.

2. **What information do you think needs to go in the bespoke/generic summary box to provide the basis for a reasonably accurate comparison?**

The bespoke/generic boxes should include the price of purchasing hardware, monthly terminal rental (POS or reader) (where applicable), terminal/software management system fee (where applicable), early exit fee, average MDR, length of the contract, scheme acceptance, brands, features and associated products, settlement timing, etc.

3. **We understand pricing is determined by a matrix of various factors, for the generic summary boxes displayed on providers' websites, how should pricing be displayed so as not to mislead - average prices paid by newly onboarded merchants, range of pricing, rates for different categories of merchants (to account for high-risk MCCs), etc?**

   SumUp believes displaying average prices paid per newly onboarded merchant would be the better option.

4. **Where/when would a bespoke summary box be most effective? What are their main methods of communication with your merchant customers (email/letter/other)?**

   The bespoke summary box should be displayed on the merchants' portal/online account for easy access.

   The generic summary box with pricing should be available on the provider's website. Any offline marketing materials should contain disclaimers redirecting to the summary box page.

   SumUp uses predominantly emails and other electronic communication methods (e.g. in-app Notifications) to communicate with merchants. Offline communications are rare and mostly marketing related.

   - **If different comms mediums are used across your customer base, does that reflect merchant preferences or do some comms types use some mediums and others use others?**

   SumUp uses predominantly emails and other electronic communication methods (e.g. in-app Notifications) to communicate with merchants. Offline communications are rare and mostly marketing related.

   - **From your own customer research/analysis, which features of communications are the most effective (i.e. provoking a response from the merchant)?**

   Emails and app notifications are the most effective mean to communicate with our merchants.

   - **How many of your merchants, if any, are entirely offline?**

   In terms of communication, SumUp has very few merchants that are targeted entirely offline. Most offline communication is marketing related.

- **Does all communication to merchants come from you (would anything be communicated directly from your acquiring partner to your merchants)?**

All communication with merchants is managed by SumUp and/or requires SumUp approval. Acquiring partners do not communicate with merchants on behalf of SumUp.

Digital Comparison Tools (DCTs)

1. What are your initial views on a remedy to facilitate entry of DCTs (e.g. Price Comparison Websites)

SumUp believes that the DCT remedy is very positive and is very supportive of the proposal. The DCTs are a great tool to help consumers compare and choose the best options. In this case, the DCTs would work effectively using information based on the generic/bespoke summary boxes. DCTs should also offer more tailored information based on simple information about merchant business which could include MCC, scale, mix online vs offline etc.

- **Likely effectiveness and important design considerations**

We believe it is important that DCTs provide two different flows covering (i) new business, which DCTs would provide information based on average values per MCC, assumed turned over, average ticket size, etc.; and (ii) existing merchants looking for different offers which would then have the ability to enter actual data to receive a better comparison.

- **Major cost categories to implement it (please try to ascertain – one off vs ongoing costs)**

IT: API integration (on-off) and API manteinence

2. How would this work in practice?

- **Would providers supply pricing information to DCTs (as in the energy sector) or would DCTs collate pricing quotes from providers (as happens in the insurance sector)?**

Providers would supply information to DCTs.

- **Do providers record merchant transaction data in different ways or is this relatively standardised?**

The components of a merchant transaction are relatively standard but how is categorised and recorded by acquirers may vary significantly which may impact on how DCTs would compare information from different providers.

3. **Do you currently list your services on a PCW (one that allows merchants to see indicative pricing from multiple providers, without having to speak to a sales representative)? If not, why?**

   SumUp has very limited engagement with affiliate websites that provide unofficial price comparisons.

4. **What is your view on the feasibility of providers supplying price/non-price information to allow DCTs to operate? How would this best work in practice?**

   We believe it's feasible for providers to supply information, provided that the summary boxes remedy will then require that acquirers work on sharing price information. Informations as the average price points, the breakdown fees per MCC, by annual spend and scheme fees, should be relatively simple to collate and provide. Further granularity may be more difficult.

5. **For instance, could you provide pricing tariffs/model (so the DCT works out the best price for a merchant) or would you need to provide quotes to the DCT in real-time?**

   For the DCT to work more effectively and present up to date information on fee and prices, the best way of implementing the remedy would be via an API with the providers to collect data in real-time.

Triggers

1. **What are your initial views on a remedy to trigger merchant engagement?**

SumUp sees this remedy as very positive. The triggers would prompt merchants to take action and reassess if the solution they currently use is still best. SumUp does not have fixed contracts for the sub acquiring product. SumUp POS agreements have fixed terms however SumUp rarely charges for the early termination fees.

- **Likely effectiveness and important design considerations**

The triggers should be done in the same communication method used to communicate with merchants ordinarily. Language should be clear, simple and contain a "call to action" (to renewal, to compare prices etc).

- **Major cost categories to implement it (please try to ascertain – one off vs ongoing costs)**

Major costs for implementing the triggers remedy would be around contract management and CRM implementation to send messages.

2. **How bespoke should the trigger prompt be/what should it contain?**

The triggers should be a generic call to action, close to the end of the contract period or, alternatively, yearly for rolling agreements.

- **Comparison with best tariff/new customer tariff** - communication should redirect to summary box with the information
- **Price changes over previous 12 months** - communication should redirect to summary box
- **Details of tariffs available from other providers** - not to be included in communication, however DCTs would be available for consultation.

3. **When is the best time to send?**

From 60-90 days prior to the renewal date.

- **End of contract and anniversary basis?** End of contract where fixed-term and anniversary if rolling basis.
- **Are there times of the year that are best/best avoided?** No comment.
- **Is there a need for a reminder if no action is taken?** No.

4. **How should it be communicated?**

Same communication method used to communicate with merchants regularly, language should be clear and simple and messages should always contain a call to action (to renewal, to compare prices etc).

- **Best medium to use? How do merchants prefer to receive communications from you? What have you found to be effective for**

provoking action? Ideally, all electronic. Either email or other electronic means (e.g in app- notifications or dashboard)

- **How prescriptive should the format/content be?** Language should be clear, simple and easy to understand.
- **Would information on how to switch be useful? Why/why not?** The call to action should be redirecting to the summary box where the merchant could get further information on other providers. No instructions should be given on how to switch.

POS Terminals

1. **What are your initial views on a remedy to facilitate portability of terminals?**

   We believe this is impractical based on hardware security standards and certification needs. Also believe that this can be achieve by creating low function standard card reader terminal but this will reduce innovation in the hardware space and create specific UK hardware requirements which will put additional cost on to the acquirers who will then pass it on to the merchants.

2. **Do you offer any terminals/readers on a lease basis?**

   No. Terminal are purchase by the merchants. SumUp leases the software.

3. **How do you support new merchant customers which have terminals supplied by a previous card acquiring service provider?** No, terminal from a different provider would not work with SumUp's services. Unless this is from one of the existing integrations for POS product (Goodtil).

Potential benefits

1. **Do you have a view on the average savings that merchants either do or could make from switching/renegotiating?**

Merchants would benefit from switching/renegotiating with providers by getting a better value proposition for their businesses. SumUp supports nano and micro merchants and this could represent potential save of 0.30% + monthly rental fees when comparing to traditional provider.

The Coalition for a Digital Economy (Coadec)

www.coadec.com

COADEC RESPONSE

CONSULTATION: Market review into card-acquiring services: consultation on remedies

About Coadec:

The Coalition for a Digital Economy (Coadec) is the policy voice of tech startups and scaleups in the UK. Since 2010, we have worked to engage on behalf of tech startups in public policy debates in the UK across a range of priority issues for startups including access to finance, immigration and skills, and technology regulation.

Our work, which fights for a policy environment that helps early-stage British tech companies grow, scale and compete globally – has seen many successes from the establishment of the Future Fund and the expansion of the Tier 1 Exceptional Talent Visa, to the delivery of the UK's Patient Capital Fund and the expansion of R&D tax credits.

For more information, contact [redacted]

Opening Remarks

Coadec welcomes the opportunity to respond to the PSR's market review into card-acquiring services consultation on remedies (hereafter, the Review). We note the timeliness of the report following the correspondence between the Treasury Select Committee and the PSR in December 2021 on the increasing costs of card payment services for UK businesses,[1] and the attention the issue has received in the press following Amazon and Visa's public dispute over the latter's fees.[2]

Fundamentally, Coadec believes that the Review must be viewed in the context of an imminent revolution in the way consumers choose to pay in the UK. There are a number of innovative alternatives on the cusp of mass adoption, including Payment Initiation Service Providers (PISPs) and Buy Now, Pay Later providers. Despite these emerging alternatives, however, the 75% decline in the use of cash over the last eight years has mostly been to the benefit of debit cards, and therefore to the advantage of the main card schemes Visa and Mastercard.[3]

[1] https://committees.parliament.uk/publications/8461/documents/85670/default/

[2] https://www.theguardian.com/technology/2022/jan/17/amazon-and-visa-end-game-of-corporate-chicken-over-uk-credit-cards

[3] https://www.ukfinance.org.uk/sites/default/files/uploads/SUMMARY-UK-Payment-Markets-2021-FINAL.pdf

Between them, Visa and Mastercard now account for 99% of all card transactions in the UK. **This is a Duopoly.** As a consequence, Coadec is disappointed that concrete steps to scrutinise the market dominance were not included in the Review and urges the PSR to follow through on its commitment in its 2022 Strategy to look into "whether there are sufficient competitive constraints on card schemes" as a matter of priority.[4]

Indeed, it is unclear why this was not a focus of the Review, despite extensive evidence gathered by the BRC over the last several years showing that costs of accepting payments have increased[5], a joint call for urgent action on card costs from the BRC, BIRA, ACS, FSB and UKHospitality in September 2021[6], and a class action claim filed in March 2022 alleging that Visa and Mastercard are exploiting their dominant market position to charge 1.8% per transaction on corporate cards.[7]

Indeed, there is even evidence that suggests that card schemes are circumventing the requirements of the UK Interchange Fee Regulation (IFR) 2015, by raising alternative fees to circumvent the cap on interchange. Against this backdrop of vocal calls from across industry, and significant evidence to support their concerns, it is regrettable that the PSR is ignoring the issue.

In spite of this glaring gap in the PSR's consultation, the stated remedies also merit dedicated feedback as it is also clear that they appear to be barriers to merchants switching between acquirers, possibly due to the lack of transparency and consistency of fees. We will therefore respond in turn below.

For the avoidance of doubt, Coadec believes that until more fundamental action is taken to review and scrutinise the fees charged by the card scheme monopoly, the remedies outlined in the Review will have limited impact.

[4] https://www.psr.org.uk/publications/general/the-psr-strategy/
[5] https://brc.org.uk/news/finance/brc-payments-survey-2021/
[6] https://brc.org.uk/news/finance/businesses-call-on-mps-to-take-urgent-action-on-card-payments/
[7] https://www.telegraph.co.uk/business/2022/03/31/visa-mastercard-caught-legal-storm-card-fees/

General Feedback

Coadec commends the intention of the Review to build the foundations to enable easier switching between providers of acquiring services, though caution against the oversimplification of product offerings that may precipitate a race to the bottom, based purely on price, with no attention to value added services.

As a general point, Coadec supports the trend towards principles based, outcomes-oriented regulation espoused by the current Government, and pursued by the FCA since 2007. In order to encourage and incentivise innovation in the UK, regulators should be cautious in prescribing conduct unless absolutely necessary, instead focusing on the desired outcome and guidelines. This is the way the FCA rulebooks function, and Coadec has heard time and time again from Fintechs in our ecosystem that this is preferable. Regulators should also be technologically agnostic, to avoid locking in distinct practices, even if they are optimal at the point of enforcement. Technology is evolving rapidly and it is undesirable to mandate practice that is fast out of date and sub-optimal.

Consultation Feedback

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

Coadec hazards the PSR against artificial standardisation that could result from the sole introduction of generic summary boxes, whilst appreciating that the introduction of a few high level generic summary boxes could achieve the objective of streamlining comparison. We urge the PSR to seek a solution that does justice to the diversity of value added services that set card-acquiring service providers apart.

Additionally, we feel the introduction of bespoke merchant summary boxes could certainly help with transparency and support consumers to make informed choices However, this also comes at the risk of increasing complexity as acquirers offer bespoke, personalised services, and thus the offerings may look intuitively harder to compare. Further, we urge the PSR to take a principles based, outcomes oriented approach that sets the minimum expectations of the firms, whilst also not oversimplifying the diversity of offerings. With key foundational outcomes defined, such as “Merchants should be clearly able to see the services they receive” and “Merchants should clearly be able to see the annual cost of the contract”, Coadec anticipates a balance between clarity and detail can be struck to truly enable empowered comparison and, if desired, switching.

QUESTION 3: Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

Coadec does not have a firm view on the explicit content of the summary boxes, other than to reiterate the need for outcomes to drive discussions around content. There may well be a case for a limited number of generic boxes, such as contract length, provider, and annual cost, however there must be scope for the diversity of products offered by acquirers to be represented. Coadec reiterates that an outcome that incentivises a race to the bottom dictated solely on price is not aspirational.

It is also desirable for acquirers to show a variety of payment options that they will enable as part of their offering, aside from just card acceptance. With methods like BNPL, open banking payments, and perhaps even cryptoassets becoming increasingly mainstream, it is important that merchants have visibility of this to better inform their choices.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Coadec doesn't have much to contribute explicitly to this question aside from that it is intuitive that SMEs stand to benefit from these changes more than larger merchants, as they have fewer resources to dedicate to the activity of comparing acquirers.

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

It is intuitive that a facility that enables efficient comparison of card-acquiring services will be of benefit to some merchants, however Coadec notes that the results of the IFF Research cited in the consultation paper did not explicitly refer to DCTs, only features of potential DCTs. It is not clear that there is high appetite among merchants for the concept of DCTs (with 46% responding to the IFF research that “nothing” would make SMEs feel more confident about deciding which provider to switch to).

QUESTION 6: What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

It is not clear that there is the demand for DCTs from merchants. It is also not clear how DCTs would be developed: if there was demand from customers, it is likely that DCTs would be proliferating organically, and as they are not, it's not clear that there is an explicit market failure that can only be solved by the imposition of DCTs.

QUESTION 7: What information do you think should be provided to merchants by DCTs?

We refer back to our responses to questions 1-4 on the desired content of summary boxes. Coadec believes it would make sense for some elements of the summary box content and the information provided by DCTs to align.

QUESTION 8: Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

Coadec would suggest that this question is circular. In the absence of multiple DCTs active in the market today, it is not clear to whom the card-acquiring services would be sending pricing and other comparable service information to, in order to then stimulate the creation of new DCTs.

Additionally, it is not clear what mandate the PSR has to compel card-acquiring services to expose their pricing data to DCTs. This information is the intellectual property of the businesses, and it is not clear whether there is a market failure that justifies this compulsion at this stage. In addition, the technical implementation of this exposure would raise an additional barrier to entry for new entrants into the card-acquiring services market, and it is not clear that the harm this would cause to innovation and competition would be outweighed by additional consumer switching as a result of DCT usage.

QUESTION 9: Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

In the event that there was a compelling and secure service that justified the data exchange, Coadec believes that merchants would feel comfortable sharing their card-acquirer transaction data with DCTs, using the popularity of open banking among businesses as a precedent.[8] Where there is a good service, businesses are open to sharing data.

There would, however, be two barriers to this: one, the lack of a compelling service being offered by DCTs, and two, the lack of a clear method for data to be exchanged. As outlined

[8]https://www.openbanking.org.uk/news/uk-open-banking-marks-fourth-year-milestone-with-over-4-million-users/ - over 600,000 businesses have consented to share their data through open banking.

in the consultation document, there aren't multiple active DCTs today, and it is not clear that there is demand from merchants for DCTs to be introduced. Secondly, whether there should be an open banking style intervention that compels the exposure of APIs to enable merchants to port their card-acquirer transaction data would require a dedicated review.

QUESTION 10: Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

Coadec does not have much to contribute to this question, other than to refer to the CMA's 2017 Digital Comparison Tools Market study that found a lack of transparency in the commercial relationships that existed between comparison tools and the providers listed.[9] In the event that DCTs gained commission from providers, which would be a likely business model, it would be paramount that sponsored partners were clearly visible to merchants using the DCT.

QUESTION 11: Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Again, Coadec would only respond that it is intuitive that SMEs, who have less resources to devote to the activity, would benefit from more efficient mechanisms to switch.

QUESTION 12: Do you agree that provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter, could improve merchant engagement?

No response.

QUESTION 13: Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?

Coadec is hesitant to endorse the enforcement of fixed-term contracts as this is at odds with our overarching principle of avoiding prescription. It is not clear that a fixed-term contract is always preferable to rolling contracts, and the forced imposition of an end date may perversely lead to merchants having less leverage than if they were able to negotiate mid-term. If there is a high risk of imminent loss of service, firms may find themselves held to ransom by acquiring providers.

9 https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf

QUESTION 14: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

No response.

QUESTION 15: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

- **Information on the purpose of the communication**
- **How much the merchant paid for their card-acquiring services in the previous 12 months**
- **The amount that the merchant would save by switching to the lowest-priced option**
- **Information on non-price benefits of switching**
- **Information on POS terminal switching**
- **Information on how switching works, and what merchants should do if they wish to switch**
- **A call to action**

Coadec reiterates the desire for any prescribed communications associated with remedies in this report to be flexible enough to accommodate a diverse selection of products, terms and value added services. It is therefore desirable that any prompt messages are strictly factual, alongside a brief summary of the potential benefits of reviewing the service ahead of renewal opportunitunity, but the PSR should be cautious in compelling explicit reference to data points like cost and savings, so as to avoid oversimplifying the service being received.

Additionally, it is desirable that, in order to save the prompt message from becoming unwieldy and long, additional information and resources are signposted. One opportunity would be the introduction of a switching service that streamlines the process for switching card-acquirer service provider and/or POS terminal provider, much in the way that the Current Account Switching service has supported consumers.

QUESTION 16: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

No substantial opinion other than to reiterate the need for solutions to be technologically agnostic and driven by outcomes, rather than prescription.

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

See responses to Questions 4 and 11.

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

Answer to both 18 & 19: As stated earlier in this document, Coadec is in favour of technologically agnostic regulation and would be concerned that enforced interoperability of POS terminals risks 1) locking in the status quo and 2) introducing barriers to entry for innovative firms looking to enter the market in the future. Feedback from members in our ecosystem outlined how the POS terminal market is heterogeneous, with a diverse selection of products and services offered. This variety means that enforcing interoperability would be challenging, if not disproportionately expensive and resource intensive.

QUESTION 20: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

After consulting with our ecosystem we believe that there is scope to suggest that reforming POS terminal lease contracts could enable merchants to switch card-acquiring service providers more easily. As it currently stands, Coadec believes that there is evidence to suggest that some ISO/acquirer partnerships effectively tie merchants into POS lease agreements that only work with the partner card acquiring service provider. While acquiring is a regulated activity under the UK's transposition of PSD2 in the Payment Services Regulations 2017 (PSR 2017), the POS terminal lease agreement is exempt. Through the bundling of the services, however, merchants become beholden to the unregulated agreements they make with ISOs, including potential expensive early termination fees in the event they wish to switch provider regardless of the explicit terms of their acquirer contract. This appears to merit scrutiny by the PSR.

Additionally, we note that the regulation of terminal hire is currently covered by the Consumer Credit Act (CCA). Coadec contends that the content of the CCA is often far too prescriptive and unwieldy, limiting innovation and, fundamentally, the ability of service providers to offer flexible and adaptive services that best meet customer needs. As the CCA is not within the regulatory purview of the PSR, Coadec notes that any remedies pursued by the PSR in this space may be complex to legally enforce.

QUESTION 21: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

No response.

QUESTION 22: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

It is likely that mandating POS terminal portability will lead to additional costs on the ecosystem that will ultimately be passed on to the merchants through contract costs and fees. Consequently it is important that the benefits of switching versus the cost of the PSR's enforced remedies are carefully considered.

QUESTION 23: Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

We are also consulting on our approach to the CBA for remedies (see the annex). We would be grateful to receive responses from all stakeholders on these questions.

No response.

QUESTION 24: Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

No response.

QUESTION 25: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

No response.

QUESTION 26: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

No response.

The Payments Association (PA)

the payments association

connecting the future

Market Review into card-acquiring services

PSR

January 2022

Response from The Payments Association

Introduction

The Payments Association welcomes the opportunity to contribute to the PSR "*Market review into card-acquiring services".*

The community's response contained in this paper reflects views expressed by our members and industry experts recommended by them who have been interviewed and who are referenced below. As The Payment Association's membership includes a wide range of companies from across the payments value chain, and diverse viewpoints across all job roles, this response cannot and does not claim to fully represent the views of all members.

We are grateful to the contributors to this response, which has been drafted by Riccardo Tordera, our Head of Policy & Government Relations. We would also like to express our thanks to the PSR for their continuing openness in these discussions. We hope it advances our collective efforts to ensure that the UK's payments industry continues to be progressive, world-leading and secure, and effective at serving the needs of everyone who pays and gets paid.

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- [redacted]

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Contents

The section numbering below corresponds to the numbering of the ‘questions for respondents’ in this paper.

1. Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

Summary boxes could help through simplification and transparency but there is no consensus between our members on this as a summary may not be able to provide the level of information the merchant requires to make the right decision.

However, we think that merchants of all sizes could access greater financial savings by being able to review payments acceptance solutions from open banking providers alongside alternative card payment providers.

2. Do you think bespoke merchant summary boxes provided individually to merchants by their provider and generic summary boxes provided to all customers and potential customers on provider websites would both be helpful to improve merchant engagement?

This depends on what information is included. It is important to balance providing additional transparency with enabling competitive pricing in a complex market and ensuring merchants can make informed decisions. We think that what is most needed is to provide merchants with the details of card payment transactions with all the charges clearly listed. Micro merchants may benefit from bespoke summary boxes but this additional administrative burden may incur cost and take time, so the costs may outweigh the benefits.

3. Please provide views on information which should be included in summary boxes, and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

Transparency of prices is essential, but the pricing models used are often complex, which makes a valid comparison difficult. If summary boxes are going to be implemented, they will need to have all the information required to make theoretical transaction pricing realistic, accurate and comparable. Some members would like to see typical debit and credit cost at distinct price points, such as £10, £25, £50, and £100, as well as information on payment method, country, processing fee and scheme interchange fee.

This would highlight what we see as the main challenge that needs to be properly addressed, which is that each merchant has differences in average transaction values, the number of international customers and the split between face to face and digital payment volumes. This often has a significant impact on charges. So, all of these would need to be catered for, with separate fields or boxes.

4. Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

There was consensus that smaller merchants would be the main beneficiaries. They may have less understanding of how card acceptance fees are calculated and really value being able to see what they are being charged clearly and to be able to make comparisons so they can get the best prices. Increasingly, merchants of all sizes are integrating payments acceptance with other devices / applications such as cash registers / IPOs and trading systems, so this should help them make accurate price comparisons.

5. Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card-acquiring services where they want to. Please provide evidence to support your answer.

DCTs are already helping smaller merchants to review suppliers. These, however, only present a subset of suppliers prices and often are influenced by the incentives provided by the acquirer to the DCT. A tool to help with switching would help new businesses in particular. because DCTs would show how merchants can save time and effort.

However, we support the view of the PSR that the chances of success of a DCT will be greatly improved if this is not a regulatory solution and instead is built on a viable and long-term business model.

6. What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

The complexity of this subject is an obstacle itself. However, the major obstacle for merchants is the lack of understanding about how they are charged and how much this is costing them. This is because there are three main price methodologies in the UK market – IC++ / blended pricing / fixed transaction pricing – would need to be catered for. The full list the DCTs would need include pricing from the 20+ acquirers operating in the UK market and support all the ISOs partnering with them. Additionally, the DCTs must be able to support the mix of sales channels and payment options used by merchants.

Moreover, the publication and sharing of the fee structure from acquirers and processors is a challenge. Hence, some of our members would welcome regulation that makes it mandatory as is the case for open banking or, failing that, ways to effectively incentivise participants to do so. This would ultimately benefit acquirers and processors, despite the challenges of the rollout.

Other members, however, would encourage caution against the recommendation of mandating prescriptive requirements such as the publication of pricing information. As mentioned above, given the time constraints of many business owners, in particular SMEs, it is likely that level of engagement that businesses will give to any form of comparison tool for acquiring services will be predicated on the simplicity of that tool.

7. What information do you think should be provided to merchants by DCTs?

Information should come from the merchant (input). It requires a sophisticated system such as: transaction volume, value, type, whether they are cross-border, deal with tax, implications of downtime, number of terminals, and ideally the transaction number per scheme as well.

Further, we would like to see the current annual pricing, projected pricing from new suppliers, and alternative pricing options.

8. Do you agree that provision of pricing and other comparable service information to DCTs by providers of card-acquiring services would help stimulate the development of DCTs in the card-acquiring market?

We do not wish to comment.

9. Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

It would vary by merchant. But the primary need is for a simple way to share the information as these merchants are short of time and have other higher priorities.

Alternatively, if merchants are not willing to share it, this information could be gathered from the processor or acquirer, who would already have full view of all the merchant transactions. Of course, this will have to be with the merchant's approval, and if a market-led solution was not in place that enabled open and transparent pricing, regulation requiring the processor to share pricing information should be seriously considered.

10. Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

Merchants would have confidence in a well-structured tool, as long as the information is accurate, comprehensive, objective and corresponds to what is on the website of the acquirer or processor. We would appreciate consistency in the various formats enforced by regulators and publicity around the availability of DCTs.

11. Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Smaller merchants would be the primary beneficiaries but medium size ones would also find it helpful as larger merchants will inevitably use their own analysis and expertise.

12. Do you agree that provision of information by providers of card acquiring services to prompt merchants as the ending of their

initial term approaches, and annually thereafter, could improve merchant engagement?

Our members have different views. Some consider this to increase merchant churn, others think this would give merchants the option to switch to a better deal, encouraging merchant engagement. However, changing their supplier may not be a priority for merchants.

13. Do you agree the PSR should concentrate on investigation of information trigger remedies rather than fixed-term contracts?

Yes, because fixed-term contracts are very complex, and will take longer to address, even though this does need to happen in due course.

14. What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

The timescales would vary depending on the size of the merchant. Large and medium size merchants would need more time to make decisions on changing suppliers as this would have more ramifications and involve greater complexity. Our members agreed that a period between three to six months before the end of the contract term would be acceptable.

15. Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:
- Information on the purpose of the communication
- How much the merchant paid for their card-acquiring services in the previous 12 months
- The amount that the merchant would save by switching to the lowest-priced option
- Information on non-price benefits of switching
- Information on POS terminal switching
- Information on how switching works, and what merchants should do if they wish to switch
- A call to action

All this information is helpful and would encourage merchants to review their options.

16. What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

Some of our members think emails would be the best option, as it would give merchants the time to review trigger messages in their own time and puts the onus on the merchants to make the decision.

Others have highlighted that invoice statements, sent electronically to the POS terminal, would enable communication of multiple messages. This is possible because the latest android payments terminals all support electronic messages on the device, and this method of communication generates higher merchant engagement.

17. Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response

Smaller merchants should be the priority and will have the most to gain.

18. To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

Our members expressed concern that changes to terminal rental or leasing contracts may have negative impacts and result in fewer merchants being able to accept card payments or being faced with higher monthly fees. POS terminal portability is worth considering but is complicated (see 19, below).

19. Please explain whether you think POS terminal portability would be technically possible, and explain your response. What other technical remedies are available to address the feature of concern?

POS terminal portability is technically possible, but also complex and time-consuming. We observe that the current mixture of message protocols, accreditation and certification requirements, and security best practise make terminal portability often impractical without physical swapping of the device, even with the same POS terminal provider.

20. Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Some of our members would welcome reform to allow more flexibility to give merchants more power to switch. However, we fear negative consequences may arise unless the reform is fully thought through. An analogy to consider is that mobile phone handset contracts end at the same time as the associated data plan.

21. What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

The major technology change for small merchants over the next few years is the elimination of the need for a hardware device as merchants with more occasional use can accept a card payment through a software-only acceptance solution, commonly called “softpos”, although the merchant’s smartphone may not be suited to high volume use. This works by just downloading an app on to the merchant’s smartphone. In addition, the move to ‘pin on glass’ and higher contactless limits remove some need for POS.

22. Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

Yes, it will have impact because the hardware stock and inventory are usually paid for by the acquirer well in advance, so it will be difficult for them to manage this from a financial perspective. We would welcome a separate consultation to address POS-related issues properly.

23. Please give us your views on monitoring merchant and consumer outcomes in the card-acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently? We are also consulting on our approach to the CBA for remedies (see the annex).

We would be grateful to receive responses from all stakeholders on these questions.

Methods suggested by our members include merchants surveys and data collection from acquirers and processors. These would feed a very comprehensive view from both sides.

In terms of metrics, the key consideration is the average cost that businesses are paying for their card acquiring and POS terminals. Merchant metrics could include: type of payments used, merchant fees (cost of the merchant), processing fees, interchange fees, transaction volume for each type of card, value of the transaction (range of values of the transaction).

24. Please comment on our approach to the CBA for remedies to address the features of concern in the card-acquiring market.

Most of our members do not wish to comment. Some agree with the proposed approach. Others believe that in general, a non-prescriptive, outcome-based regulatory approach is likely to deliver the best outcomes in such a complex and dynamic market. Further, an industry-led approach focused on trialling and testing different solutions is likely to drive better innovation and discovery and enable a more transparent and open market for acquiring services.

25. What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

We believe all categories of costs should be included. Namely, cost of acquiring, typical card transactions fees and costs of running a POS terminal. Any benefits the merchants would get for switching such as lower fees, shorter leases, easier switch and reliability of the service (measured by downtime) should be provided.

When considering the assessment of the remedies, we encourage the PSR to show that the proposed remedies produce net benefits for both merchants and consumers.

26. Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your view.

Every two years would be optimum. It's a lot of information to put together and it would create an unnecessary burden if it was required too often.

About The Payments Association

The Payments Association (previously the Emerging Payments Association or EPA) is for payments institutions, big & small. We help our 180 members navigate a complex regulatory environment and facilitate profitable business partnerships.

Our purpose is to empower the most influential community in payments, where the connections, collaboration and learning shape an industry that works for all.

We operate as an independent representative for the industry and its interests, and drive collaboration within the payments sector in order to bring about meaningful change and innovation. We work closely with industry stakeholders such as the Bank of England, the FCA, HM Treasury, the Payment Systems Regulator, Pay.UK, UK Finance and Innovate Finance.

Through our comprehensive programme of activities for members and with guidance from an independent Advisory Board of leading payments CEOs, we facilitate the connections and build the bridges that join the ecosystem together and make it stronger.

These activities include a programme of monthly digital and face-to-face events including our annual conferences PAY360, Financial Crime 360 and Digital Currencies 360, and our Pay360 Awards dinner, CEO round tables and training activities.

We run six stakeholder working Project groups: Inclusion, Regulator, Financial Crime, International Trade, Open Banking and Digital Currencies. The volunteers within these groups represent the collective view of The Payments Association members at industry-critical moments and work together to drive innovation in these areas.

We also conduct exclusive industry research which is made available to our members through our Insights knowledge base. These include monthly whitepapers, insightful interviews and tips from the industry's most successful CEOs.

See www.thepaymentsassociation.org for more information. Contact [redacted] for assistance.

UK Finance

PSR Card-Acquiring Market Review (CAMR)
Consultation on Remedies

UK Finance Response

Date: 06 April 2022

UK Finance is the collective voice for the banking and finance industry.

Representing more than 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.

Our response to the CAMR is made following detailed engagement with UK Finance's Payment Acceptance Policy Group, which includes major UK banks, long established international payment services providers and newer entrants to the market.

INTRODUCTION

UK Finance welcomes the opportunity to respond to the Card Acquiring Market Review interim remedies consultation, as part of ongoing engagement with the Payment Systems Regulator (PSR) on this topic. Payments are a fundamental part of the UK economy and ensuring businesses can accept payments from their customers, with ease and adequate protection from default risk, is important. As such, we welcome the PSR's consideration of payment acceptance in the UK, and we appreciate the transparency with which the PSR has engaged with the market recently, including attending meetings and hosting webinars.

Nonetheless, in this response we outline some serious concerns with the methodology used to undertake the market review and highlight the risk of unintended consequences of the remedies under consultation for the payment acceptance market, which could cause disruption and less optimal outcomes for end consumers. This response is necessarily high level in places, given some of the commercial sensitivities around pricing, and is intended to outline the main principles to support our members individual responses.

EXECUTIVE SUMMARY

<u>Purpose of Card Acquirer Market Review</u>

The PSR has three statutory objectives – to ensure that payment systems are operated and developed in a way that considers and promotes the interests of all the businesses and consumers that use them; to promote effective competition in the markets for payment systems and services; to promote the development of and innovation in payment systems. To further the second objective, the PSR has already undertaken a number of market reviews or investigations into UK payment systems and markets, and has sought remedies to address specific harms (such as improving access to interbank payment schemes).

The purpose of this market review, now running for nearly four years (against the PSR's expectation that market reviews will take approximately 12 months with a further six months to assess any proposed remedies) was to consider whether the supply of card acquiring services was functioning well for UK merchants, and ultimately consumers; and subsequently to recommend remedies to address any identified harms. We would urge caution against the PSR taking an overly prescriptive approach to addressing perceived harms in this market. We have seen in other instances that when regulation focuses on technical methods rather than customer outcomes, the result can be disruptive and costly to the market, without substantially addressing the underlying policy objectives, and can also risk the resilience of payment systems. (For example, the recent European Regulatory Technical Standards on Strong Customer Authentication, which required a three-year programme to implement and prevent serious failures in UK ecommerce.)

At a time of increasing economic uncertainty, there needs to be a heightened focus on ensuring any changes will be effective in addressing underlying concerns that have been identified during the review. It is paramount that the PSR demonstrates and provides evidence that any remedies undertaken will improve merchant and consumer outcomes.

The PSR has proposed four remedies. In the sections below we outline potential unintended consequences in pursuing all of these; and a suggested approach for PSR to consider instead. In summary, our position on each of the remedies is:

- **Summary boxes** – in principle these could help merchants switch, but the complexity of acquiring cannot be underestimated and any approach will require significant further work and customer testing;

- **Trigger messages** – in principle these could help merchants switch, but the PSR should focus on merchant outcomes and ensure the approach is proportionate;
- **Digital Comparison Tools (DCTs)** – these work better in 'single style' consumer markets, and any consideration of DCTs should come after assessment of the workability of summary boxes;
- **Point of Sale interoperability** - we do not believe this is feasible to implement, neither is it sufficiently linked to the contractual harms identified or proportionate as a remedy.

<u>Concerns about the Card Acquirer Market Review</u>

We have a number of specific concerns about how this market review has been undertaken and the current direction of travel:

- ***Evidence base and link from perceived harms to remedies**:* UK Finance has raised a number of concerns about the evidence base, including methodology, during the course of the market review and it is disappointing these have not been more fully addressed by the PSR. For example, the merchant survey not capturing merchants between £10m-50m range; the continued focus on face-to-face payments contrary to the substantial increase in ecommerce; the limited insights on the value merchants receive from their acquirers or the range of additional services offered; and the absence of any observations on the outcomes or views of consumers. Moreover, the PSR cites little evidence to link the harms identified, which are primarily contractual in nature, and the remedies, which are focused on comparison and technical interoperability.

- ***Narrow scope**:* It is understandable that the PSR has focused on a specific segment of the acceptance market – card payments – as it still underpins the majority of retail transactions. Nevertheless, the acceptance market is evolving at a rapid rate, both on payment 'rails' (e.g. emerging acceptance of open banking and cryptocurrency) and on products (e.g. soft Point of Sale terminals). Any prescriptive remedies for card payments present a three-fold risk:

    i. that onerous remedies on card rails will disadvantage market players in that segment compared to emerging payment acceptance;

    ii. that a technical remedy such as POS interoperability between card acceptance providers will be outdated by the time it is implemented and prevent further innovation, and will hinder interoperability with other payment acceptance types;

    iii. that POS terminal leases still remain predominantly face-to-face merchant focussed, and POS interoperability therefore fails to consider if a merchant has complex ecommerce or omni-channel integrations.

- ***Mis-categorisation of market**:* the types of remedy the PSR are considering are more commonly seen in business-to-consumer (B2C) markets. Acquiring is a business-to-business (B2B) market, with merchants – excepting perhaps the smallest merchants – demonstrating high levels of commercial sophistication. In addition, acquiring is not a simple commodity market like electricity, but a more complex, differentiated proposition, in part reflecting the fundamental underlying complexity of card payments. Providers compete not just on price but also on quality/functionality. These factors will complicate the application of the PSR's remedies such as summary boxes and DCTs, which focus on facilitating price comparison. Moreover, the significant risk of applying the wrong type of remedy to a complex market is commoditisation of that market (i.e. race-to-the-bottom pricing); which then undermines other valuable aspects of provision. This is particularly true in an evolving market, where different market segments and players are offering different levels of merchant benefit (for example, Buy-Now-Pay-Later has demonstrated significant benefits in customer acquisition and retention, whereas traditional card acquiring offers robust protection against customer payment default or fraud).

- ***Blanket application***: the PSR has not given any indication on how potential remedies may vary in implementation between merchants of different sizes. The £0-£50m CTO banding captures a very wide range of merchant types, in terms of complexity of payment acceptance needs and commercial sophistication. A one-size-fits-all approach to all merchants within this threshold is not proportionate. In general, the PSR's remedies are likely only appropriate for merchants at the bottom end of this threshold. Moreover, on an individual basis firms might not be able to identify which merchants have less than £50 million in card turnover, for example multi acquired commercial arrangements, and thus fall within the scope of the remedies.

<u>Suggested improvements to Card Acquirer Market Review</u>

We suggest the PSR consider the following approach to development of remedies:

- ***Refocusing on outcomes-based remedies rather than prescriptive, technical remedies*.** We recognise that the direction of travel from the PSR seems to be greater prescription, but the PSR is likely to face a number of options as they develop their remedies between a principle vs. a prescription, and we would encourage the PSR to rather consider the former route.

- ***Cost Benefit Analysis.*** The PSR must undertake robust cost benefit analysis of its proposed remedies and the digital comparison tool ('DCT') feasibility study before the publication of any draft remedies, to demonstrate their appropriateness and establish a baseline for post-implementation review. We believe that this help reduce the risk of unintended consequences and guard against poor outcomes.

- ***Real-world trials, pilots and careful monitoring.*** The PSR and the industry has limited experience of designing remedies for the merchant community and has had only limited engagement with merchants (and the sector more widely) during the market review to date. Progressing trials will contribute greatly to the PSR's understanding of merchant circumstances and the outcomes they are looking for consistent with the Competition and Markets Authority's expectation that regulators should test and trial potential remedies before implementation where possible. We would also expect the PSR will consult with the industry as to how it intends to monitor and evaluate the remedies prior to its final remedies notice.

- ***Phasing of remedies and market-led solutions***. We strongly recommend that the PSR consider application of any remedies in a phased approach and concentrate on those remedies where industry alignment can be found and progressed upon. For example, the summary box remedy will not be straightforward to deliver in a complex, non-commodity type market, and it would be prudent to assess how well it has been implemented before considering development of DCTs, which will ultimately be based on the same information. We also agree that, if a DCT remedy were to be pursued, it should be market-led and not designed through prescriptive regulation. Finally, we would recommend working with the industry to find a suitable alternative contractual remedy that addresses the feature of concern that the PSR is seeking to address, rather than pursuing POS interoperability.

RESPONSE TO QUESTIONS

➢ **SUMMARY INFORMATION BOXES**

QUESTION 1: Do you agree that summary boxes would improve merchant ability to search and switch between acquirers?

There are versions of the summary box that may prove workable, and upon which industry could implement, but these will not be without their complexities; and may not have the intended policy outcome of increasing merchant switching. The PSR accepts that evidence on effectiveness of summary boxes is mixed[1]. In the original CAMR report[2] the PSR notes that a large percentage (45%) of small-to-medium merchants never search for providers.

Any summary box approach needs to take into account the following considerations:

- The ability to agree price points and terminology by which like-for-like comparisons can be made. Acquiring is a complex business and pricing models are largely driven and reflective of market conditions, with many non-pricing elements and services being offered that go far beyond 'acquiring' (e.g. Dynamic Currency Conversion (DCC), Fraud, Gateway Services).
- Given the time constraints of many business owners, it is likely that level of engagement that businesses will give to any form of comparison tool for acquiring services will be predicated on the simplicity of that tool. In assessing its options, the PSR should consider this as a critical guiding principle.
- Balancing the need for simplicity with the complexities that acquirers are statutorily required to adhere to (e.g. Article 9 – Interchange Fee Regulation[3]).
- Ensuring accuracy of the information to allow merchants to make informed decisions and avoid any uncertainty.

Overall, we believe there are some important practical questions on price and non-price points related to this remedy's definitions and design elements, which reiterates the importance of focusing on outcomes and testing and trialling different solutions. We also encourage the PSR to avoid prescriptive regulatory requirements and instead let the market compete for the needs of their customers and the best way to present pricing information in an adequate form to different merchants.

Finally, as we have said before the unintended consequences to any approach should be considered carefully, particularly for SMEs due to the time constraints they would have to increase engagement with their acquirers on a more regular basis than they currently do.

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[1] The PSR's data indicates that upwards of 45% of merchant suggest nothing would make them more confident about switching provides measured against 23% who suggest access to more comparable pricing information and less than 10% suggesting more accessible information.

[2] https://www.psr.org.uk/media/vkbmjgny/psr-card-acquiring-market-review-merchant-survey-results-iff.pdf

[3] Regulation (EU) 2015/751 of the European Parliament and of the Council https://www.legislation.gov.uk/eur/2015/751/body

QUESTION 2: Do you think bespoke merchant summary boxes provided individually to merchants by their provider; and generic summary boxes provided to all customers and potential customers on provider websites, would both be helpful to improve merchant engagement?

There are differences of opinion as to the workings of a more bespoke merchant summary box, and what level of detail would be required; and, if indeed, this would be possible or desirable. A minority of members are supportive in principle of a more detailed set of pricing akin to what has been seen in other jurisdictions, such as the *Canadian Code of Practice*[4].

In consideration of this approach, recognition needs to be given on how acquirers bilaterally negotiate confidential pricing and contractual terms. Offers made by acquirers to their merchant customers tend to be uniquely priced for and constructed accordingly (i.e. blended rates, transaction based pricing, fixed based made as part of a subscription based model (with everything included)).

The notion of bespoke pricing boxes would require a significant degree of technical work to be produced for each merchant, making any direct comparison between providers difficult to achieve. Most merchants requesting bespoke pricing tend to be ‘enterprise level merchants’, who are sophisticated enough to understand both their pricing needs and market choices.

Following on from the point around accuracy of data, there will need to be consideration of the integrity of that data if it is provided to third party websites, including the management of the underpinning APIs).

QUESTION 3: Please provide views on information which should be included in summary boxes and how it should be presented to support like-for-like comparison of services by merchants. Respondents may include indicative mock summary boxes with their responses, in bespoke or generic formats or both.

Ultimately, this will be determinant on the extent of the scope, and the type of services that are agreed to (i.e. ecommerce / F2F/ international/ B2B); and, derivative on any future pricing matrix design. We suggest agreeing a list of recommendations that help set the parameters in how any future pricing matrix design should be configured, and if indeed, margin ranges are likely to prove acceptable to the PSR.

QUESTION 4: Which merchants would benefit most from the implementation of summary boxes? Should summary boxes be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

Merchant ‘needs’ differ both in size, operation and complexity. At best, any pricing matrix might be offered as a barometer/ illustrative guide in percentage terms (%) based on the associated services being defined for that particular merchant group or cohort.

The more pertinent question is how the demarcations in the CAMR approach to date have been made and the justifications for doing so. Any arbitrary separation in fitting merchant types (based on turnover thresholds) is not something that is particularly well recognised by acquirers. Indeed, the merchant survey as carried out as part of the Interim Report stage offered little practical insight around merchants operating in the range between the £10mn - £50mn threshold.

[4] https://www.canada.ca/en/financial-consumer-agency/services/industry/laws-regulations/credit-debit-code-conduct.html

Our understanding from one member's own exploratory findings of its member base indicated a much higher occurrence of customer loyalty rather than any desire to switch. For a certain size of merchant (i.e. above £20mn range), acquirers report that a more sophisticated set of demands are catered for, and the bespoke service provided by an acquirer and relationship built up over many years is of particular value. Such merchants are more focussed on attributes such as service provision and general functionality rather than solely on pricing differentials.

- **DIGITAL COMPARISON TOOLS (DCT)**

QUESTION 5: Please provide any comments you have on the potential for DCTs to help merchants search and switch between providers of card acquiring services where they want to. Please provide evidence to support your answer.

We do not agree that DCTs should be pursued as a remedy, and certainly not until the other remedies of summary boxes and trigger messages have been considered and properly trialled.

DCTs work better for 'single style' products operating in mass consumer markets (e.g. energy/ mobile telephony) rather than what is predominantly a B2B market. Acquiring is complex and the relationship is wholly unique between the acquirer and their chosen merchant, making it very difficult to achieve comparability by making that unique offer 'like-for-like'. It is based on a constantly evolving and dynamic relationship and brings in abstract factors such as risk mitigation tools, underwriting of liability and liquidity management that cannot be conveyed as part of a simplistic comparison. Creating DCTs in such a market would be a hugely complex undertaking.

The construct and effectiveness of any DCT is built around the simplicity of its design to convey the information in an easy format, so that any effective comparison can be made. This is usually predicated around a simplistic set of features where the use of DCT's has worked well for certain product features and in other markets (e.g. mortgages, insurance, credit cards). However, this differs for acquiring where there exists a multitude of different products that each have their own depth of products/ services attached to them.

The PSR note merchant confidence in a commercial DCT is vital for engagement, but commercial DCT providers may be reluctant to enter a market where merchant appetite for switching reflects the levels reported by the PSR. Any DCT would have to be regulated closely by the PSR in a similar way to the Ofcom Accreditation Scheme[5].

We would respectfully ask the PSR to provide further evidence of what comparable and/or successful initiatives have been implemented for these specific types of markets, and with evidence as to where these have been worked through comparable exercises in other jurisdictions to refute our view. In particular, to demonstrate that success has had a direct impact and led to achieving the types of outcomes that the PSR wishes to have implemented (i.e. promoting competition in markets where this is deemed '*as not being sufficient'*).

UK Finance would strongly advocate that such factors form part of the proposed feasibility study on DCTs. As well as careful consideration of the likely obstacles both in resource, proficiency and capacity for the PSR to do this.

[5] https://www.ofcom.org.uk/__data/assets/pdf_file/0030/78348/accreditation-scheme.pdf

<u>QUESTION 6:</u> What do you think are the main obstacles to development of DCTs in the card-acquiring market, and how could these be overcome?

See answer to question 5.

<u>QUESTION 7:</u> What information do you think should be provided to merchants by DCTs?

See answer to question 5.

<u>QUESTION 8:</u> Do you agree that provision of pricing and other comparable service information to DCTs by providers of card acquiring services would help stimulate the development of DCTs in the card acquiring market?

See answer to question 5.

<u>QUESTION 9:</u> Would merchants feel comfortable and confident enough to share their card-acquirer transaction data with DCTs? Are there barriers to this, and how should they be addressed?

See answer to question 5.

<u>QUESTION 10:</u> Please provide your views on whether merchants are likely to have confidence in DCTs in the card-acquiring sector, and what could be done to improve this.

See answer to question 5.

<u>QUESTION 11:</u> Which merchants would benefit most from DCTs? Should DCTs be designed and targeted to support any particular group of merchants?

See answer to question 5.

- **<u>TRIGGER MESSAGES</u>**

<u>QUESTION 12</u>: Do you agree that provision of information by providers of card-acquiring services to prompt merchants as the ending of their initial term approaches, and annually thereafter

The concept of a trigger message as an ‘annual prompt’ for the merchant to look around could act as a useful reminder and positive development that may encourage merchants to think about their current contractual arrangements.

They have been delivered to good effect in other markets e.g. insurance markets when policies are renewed. The attributes of how this might be applied, and tailored, to the acquiring market, would be a useful first exploratory step, to determine whether this would have the same meaningful impact as seen in other larger B2C style markets.

<u>QUESTION 13:</u> Do you agree that the PSR should concentrate on investigation of information trigger remedies, rather than fixed-term contracts?

Yes. This would afford more flexibility and be reflective of how our members' business models differ in practice. The concept of fixed term contracts gets into the difficult area of determining what is actually considered a 'fair' contractual period or a 'fixed initial term contract'. The intended purpose of these is to help cover the accompanying investment requirements (e.g. for sophisticated high-value pieces of equipment such as Epos systems) that are placed on acquirers.

<u>QUESTION 14</u>: What is the best time to deliver trigger messages to merchants in relation to the ending of their contract minimum term, and thereafter? Please provide evidence to support your view.

UK Finance has no definitive view or practical insight; and would point toward the need to call upon the services of a specialist design agency / behavioural expert analysis company that can help test and evidence any underlying set of assumptions.

<u>QUESTION 15</u>: Please comment on the content of potential merchant prompt messages. Please provide any views you have on the following categories of information and others you think would be helpful:

- **Information on the purpose of the communication**
- **How much the merchant paid for their card-acquiring services in the previous 12 months**
- **The amount that the merchant would save by switching to the lowest-priced option**
- **Information on non-price benefits of switching**
- **Information on POS terminal switching**
- **Information on how switching works, and what merchants should do if they wish to switch**
- **A call to action**

The onus would be better placed on establishing a set of overarching principles around what that annual prompt/ reminder message should consist of, rather than taking a prescriptive approach.

The list intimates but remains silent on the practicalities. This could become a material technical issue to complete/build potentially for dozens of thousands of merchants and necessitate some kind of platform, which could carry significant build and maintenance costs and multiple iterations owing to complex pricing arrangements involved.

<u>QUESTION 16</u>: What is the best method of delivering trigger messages to merchants? Please provide evidence to support your view.

This depends on and should align with the operational elements that acquirers have to juggle.

There is an opportunity to look at alternative delivery mechanisms which might be more in keeping with how acquirers engage with their merchants at a practical level, rather than the customary circulation of a standard letter placed in the post or generic email landing in an inbox periodically during the year. This could include through acquirers' customer support teams or billing cycle arrangements.

We do not think the PSR should stipulate precisely how or when the messages are sent, or what they must contain, but instead focus on the outcome of merchants being able to make informed decisions.

QUESTION 17: Which merchants would benefit most from trigger messages? Should trigger messages be designed and targeted to support any particular group of merchants? Please provide evidence to support your response.

This needs to be properly tested with perhaps a sliding scale of support being offered and based around the size of the merchant. Intuitively it does seem that a one-size-fits-all approach might appear overly simplistic and at this early state it feels difficult to state which cohort of merchants would benefit by the introduction of such measures.

- **POS INTEROPERABILITY**

QUESTION 18: To what extent could the feature of concern we identified resulting from POS terminal leases be addressed by (a) replacement of terminals by POS terminal lease providers to support merchants switching between acquiring services (b) POS terminal portability (c) a combination of these (d) another solution? Please provide evidence to support your answer.

We do not believe this remedy is feasible to implement, neither is it sufficiently linked to the contractual harms identified or proportionate as a remedy. The notion of POS interoperability is viewed as an inappropriate imposition of a utility sector style remedy that has no precedent in B2B markets (including broadband where providers all use their own routers).

There are too many attributes/commercial relationships that would need to align and falls outside the purview of the PSR to enforce. This is not as easy as individual acquirers being able to 'flip-a-switch' (based on proprietary software/ estate management, differing specifications that need to be complied with/ accreditation standards and dynamics of managing a highly complex supply chain) nor is this comparable with interoperability in other markets such as mobile telephony.

The 'spread' of terminal software integration, hardware designs and range of product specifications (with variance of functionality and features) to which large segments of the market are proprietarily and/or owner designed, makes the notion of interoperability unfeasible.

Some members have expressed a differing view because of the unique features of their commercial model, but the vast majority would directly challenge the feasibility in how the PSR envisages this to work; and for it to operate in practice.

Our members tell us that if this remedy is going to be imposed, the PSR will need to lead on all of the activity, and the cost benefit analysis must be unequivocally demonstrative of benefit for both consumers and merchants alike. Members have been consistent in raising concerns on this remedy, not least the very real detriments this could have to both acquiring and terminal market sectors.

QUESTION 19: Please explain whether you think POS terminal portability would be technically possible and explain your response. What other technical remedies are available to address the feature of concern?

See answer to question 18.

<u>QUESTION 20</u>: Do you think reform of POS terminal lease contracts is needed to address POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services?

Our members are better placed to feedback as part of their own individual responses to express the commercial designs and models for how their acquiring businesses operate.

<u>QUESTION 21</u>: What impact will new technology and/or changes in merchant and customer behaviour or expectations have on this feature of concern, and what are the likely timescales of these impacts?

The acceptance market is changing radically, with a growing range of acceptance types being offered by merchants and gaining traction amongst consumers. Against the backdrop of a challenging macroeconomic environment, merchants will increasingly rely on their acquirer relationships to navigate their way through this complexity, regardless of price.

The 'feature of concern' as being described in this instance is around terminal contracts, and more specifically how the use of 'ever green' contracts for POS and use of termination fees inhibit the ability for the merchant to change or switch acquirer. It would be most apposite for a contractual problem to require a contractual solution to address any perceived 'malpractices' operating in the market regardless of the technology in question.

<u>QUESTION 22</u>: Would the introduction of POS terminal portability have commercial impacts on POS terminal lease providers, or in other parts of the value chain? Please provide evidence to support your answer.

Yes. As one example, by requiring interoperability, providers will need to depreciate their terminals quicker which is likely to lead to a higher rental /lease charge from the provider.

POS terminals are typically provided under "hire" rather than "hire-purchase" contracts, and ownership of the terminal does not transfer to the merchant under the agreement. The acquirer providing the POS terminal instead commits to providing the merchant with a working, up-to-date POS terminal, and to support the merchant with its operation. A portion of the cost of POS provision to merchants relates not to the hardware cost, but to 'support' and 'operational costs'. For example, providing technical support with queries and replacing faulty POS terminals. Another example is facilitating the update of POS terminal firmware to support the new UK £100 contactless limit. In the interoperable/merchant-owned POS model the PSR appears to be considering, it is not clear which party would provide these services or bear the cost of their provision.

Overall, the concept of POS interoperability fundamentally changes the entire economic model for how card acquiring would work and would undoubtedly stifle investments in new equipment.

➢ INFORMATION REQUESTS

<u>QUESTION 23</u>: Please give us your views on monitoring merchants and consumer outcomes in the card acquiring market. Also, the methods we should use to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. What metrics should we measure and track to do this, how should the information be collected (for example, via merchant surveys and/or data collection from providers), and how frequently?

The PSR has limited experience of designing remedies for the merchant community and has limited engagement with actual merchants and the sector more widely, based on its primary function as an economic regulator and concurrent competition authority for the payments market. Progressing real world trials would contribute greatly to the PSR's understanding of merchant circumstances and the outcomes they are looking for.

UK Finance is acutely aware from its active role in helping deliver payment projects and its policy on commercial lending in how stretched, both in time and resources, the merchant community is at present. As well as surviving through the profound commercial implications over the last five years of Brexit, the disruption and repivoting of business models caused by the Covid 19 pandemic, and the absorption on the operational side of their businesses through mandated regulatory changes (e.g. SCA), merchants are facing continued squeeze through a combination of fractured supply chains and inflationary pressures. Any further disruption to merchants' business operations must be carefully assessed.

<u>QUESTION 24</u>: Please comment on our approach to the CBA for remedies to address the features of concern in the card acquiring market

UK Finance's understanding is certain of our members have been involved in bilateral discussions to which a separate list of twenty questions have been raised around the effectiveness of what should be included and further considered as part of that CBA analysis. We welcome that dialogue and urge the PSR to take into account the points our members will no doubt raise in this regard.

We would encourage the PSR to undertake as comprehensive a review and analysis as is possible in light of the very real repercussions and potential range of unintended consequences that could arise if the remedies themselves are poorly implemented.

<u>QUESTION 25</u>: What categories of benefits and costs should be included in the CBA? Please provide evidence to support your ideas.

N/A

<u>QUESTION 26</u>: Over what period do you think we should assess benefits and costs for the CBA? Please provide evidence to support your views.

UK Finance has no meaningful indication with which it can provide to answer the question raised.

WorldPay

worldpay
from FIS

PSR MARKET REVIEW INTO THE SUPPLY OF CARD-ACQUIRING SERVICES

Worldpay response to the PSR remedies consultation

6 April 2022

[redacted]

Contents

INTRODUCTION AND SUMMARY

1.1 In November 2021, the PSR published its final report (the "**Final Report**") setting out the findings from its market review into the supply of card-acquiring services in the UK ("**Market Review**"), which had the purpose of determining whether the supply of card-acquiring services was working well for merchants, and ultimately consumers.

1.2 The Final Report finds that the supply of card-acquiring services "*does not work well for small and medium-sized merchants, and large merchants with annual card turnover up to £50 million*".[1] The Final Report identified three features of concern that "*restrict the ability and willingness of merchants to search and switch between card acquirers*":[2]

(a) acquirers and ISOs do not typically publish their prices for card-acquiring services;

(b) the "*indefinite*" duration of acquirer and payment facilitator contracts for card-acquiring services; and

(c) technical or contractual barriers that relate to POS terminals and POS terminal contracts.

1.3 The PSR published a consultation document (the "**Consultation Document**") in January 2022 inviting stakeholder feedback on a package of four proposed remedies to address these areas of concern. Worldpay welcomes the opportunity to comment on the Consultation Document and we look forward to further engagement with the PSR throughout the remedies phase of the Market Review.

1.4 Worldpay understands from the webinar organised by the PSR on 22 March 2022 that the PSR has already received consultation feedback expressing "*strong*" or "*general*" support for certain remedies outlined in the Consultation Document. However, Worldpay is also aware that there are strong concerns across the card payments industry in relation to the cost implications and effectiveness of the remedies that have been proposed, and Worldpay would expect to see both sides of the argument taken into account during subsequent stages of the remedies consultation.

1.5 This submission sets out Worldpay's preliminary response to each of the four potential remedies outlined in the Consultation Document and on the evidential base supporting the proposed remedies as set out in the Final Report.

1.6 By way of summary, the findings presented in the Final Report do not provide the necessary legal and evidential bases to proceed with the remedies that are currently outlined in the Consultation Document. In particular, the Final Report and Consultation Document:

(a) provide insufficient evidence to support the finding that merchants experience difficulties when searching and switching. Worldpay has submitted evidence that switching levels are high, and survey evidence commissioned by the PSR finds merchants do not find an absence of information or lack of comparability to be a problem requiring the imposition of market remedies;

1 Final Report, page 3.

2 Final Report, paragraph 1.7.

(b) do not provide the evidential or legal basis to impose market interventions, other than in relation to the smallest merchants[3]. The IFF survey in particular focused on the smallest merchants and such evidence cannot be assumed by extrapolating from one broad merchant segment to another;

(c) depart from well-established regulatory principles that consumer protection remedies are not appropriate in business-to-business markets, with the possible exception of the smallest merchants, but additional regulatory intervention in this latter context must be carefully scrutinised prior to implementation;

(d) whilst recognising that non-factors are important to merchants, understate the importance of non-price factors, such as quality, service and choice, in the design of the proposed remedies. Merchants' choice is driven by a wide range of different non-price factors, and acquirers are competing to make transactions as simple, seamless and efficient as possible. Proceeding with the remedies as currently outlined in the Consultation Document could result in unintended consequences whereby undue weight is placed on price competition at the expense of non-price factors (which would be to the detriment of merchants and their consumers).

1.7 Worldpay does not consider there to be an evidential basis for imposing remedies. However, to the extent that the PSR decides to proceed with the proposals set out in the Consultation Document, Worldpay has set out its views with respect to each remedy as part of this submission. By way of overview:

(a) **Summary boxes:** Worldpay broadly supports the introduction of a summary box remedy that is targeted towards the smallest merchants. However, this remedy would require further consultation and market testing. Acquirers should also remain free to design and choose what information to include in the summary box to prevent a 'race to the bottom' on limited aspects of price competition (to the detriment of non-price factors).

(b) **Digital comparison tools ("DCTs"):** Worldpay does not consider the emergence of third party DCTs to be likely in response to the information remedies proposed in the Consultation Document, nor would DCTs be appropriate or beneficial to merchants in the context of the card-acquiring sector. In particular, it is unlikely that DCTs would enable accurate comparisons due to the underlying complexity of interchange and scheme fees, which would result in merchants receiving poor recommendations.

(c) **Trigger messages:** Worldpay is broadly supportive of trigger messages that are targeted towards the smallest merchants, which would coincide with merchants that receive information via a summary box. Such communications should be based upon existing communications channels between acquirers and their merchants where possible (i.e. based on the merchant's existing contact method preferences), and acquirers should be free to determine the content of these messages, as prescribing their content could have unintended consequences (e.g. a 'race to the bottom' on a narrow sub-set of price factors, see paragraph 1.7(a) above).

(d) **POS terminals:** Worldpay does not consider a terminal interoperability remedy to be a proportionate market intervention, as the costs associated with enabling such a technical solution are likely to be significant relative to the potential benefits. It is also

3 The PSR defined the smallest merchants as those merchants with <£380,000 annual card turnover and who, based on the PSR's analysis, make up around 90% of the merchant population.

unclear what implications POS terminal lease reform would have in practice, and this would need to be explored further with the PSR. In any event, such market interventions may ultimately prove unnecessary as technological developments are quickly driving merchants away from POS terminals and towards new card acceptance solutions, including card readers and integrated solutions, such as EPOS.

1.8 In this submission, Worldpay has set out its high-level views on the remedies outlined in the Consultation Document. However, Worldpay's submissions and submissions by other respondents cannot be taken as substitutes for rigorous market testing and further consultation with direct industry participants in order to assess the impact of any remedies prior to their implementation, which is now the standard approach adopted by competition regulators, including the CMA and FCA, in the context of information-based remedies.

Insufficient evidential basis for interventionist remedies

2.1 Worldpay remains concerned that the legal standard required to impose remedies of the type contemplated by the PSR is plainly not met.

2.2 The evidence does not demonstrate, in particular, an issue with switching. Indeed, levels of switching observed in the data are substantial, both in absolute and relative terms across the categories of merchants assessed.[4] This is a fundamental issue as the PSR is now proposing to employ remedies that are designed to solve switching issues, which are not supported by the evidence.

2.3 The results of the IFF Survey, commissioned by the PSR as the principal means to examine switching in this market, highlight this clearly. The survey does not support a finding that merchants find an absence of information or lack of comparability to be a problem requiring the imposition of market remedies; on the contrary, 89% of respondents to the survey said that they receive enough information in order to understand the price they pay for card-acquiring services. There is therefore no direct evidence that a lack of information as regards price and non-price factors is inhibiting merchants' ability to shop around and get the best deal. Moreover, to the extent that findings are of relevance from this survey, they only relate to the smallest merchants (e.g. merchants with an annual card turnover of less than £380,000, who account for around 90% of the merchant population according to the PSR).[5]

2.4 In this regard, there is no evidential basis at all set out in the Final Report for applying remedies to larger merchants. In particular, the PSR acknowledges that large merchants "*were not represented in the merchant survey*".[6] There is no evidence presented in the Final Report to demonstrate that there is lack of searching and switching by large merchants, or that lack of information is a concern. It is incorrect to say that, "*the features which restrict the searching and switching behaviour of small and medium-sized merchants will also apply to this group*".[7] Such evidence cannot be assumed by simply extrapolating from one broad merchant segment to another.[8]

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4 Chapter 4 of Worldpay's response to the Interim Report.

5 Final Report, paragraph 1.13.

6 Final Report, paragraph 1.15.

7 ibid.

8 Merchants within different customer segments have fundamentally different payment acceptance requirements and expectations from their card acquirers. In particular, Worldpay's [redacted]

2.5 The findings in the Final Report continue to place undue weight on the analysis of cost pass-through (both in relation to SME merchants and large merchants with card turnover up to £50 million). In this regard, as set out in detail in Worldpay's response to the Interim report, the cost pass-through analysis was based on a flawed methodology and does not provide the evidential base to support the package of remedies proposed. Worldpay submitted a more conventional approach to assessing cost-pass through that demonstrated that the pass-through rates were in fact high. The cost pass-through analysis also does not provide any direct evidence that merchants find it difficult to search or switch acquirer, or indeed that it is a lack of information that is creating such problem.

2.6 The cost pass-through analysis in the Final Report also fails to adequately take non-price factors into account. Quality, choice and innovation have all improved significantly in recent years, in a sector that is undergoing a period of rapid and unprecedented change, and which has attracted a significant amount of new entry. There remains a mistaken perception that price is the only material parameter of competition.

2.7 The lack of evidence upon which to base remedies becomes an even more fundamental issue in circumstances where the Consultation Document envisages applying categories of remedies that are usually reserved for consumer related issues to a business-to-business sector (as discussed further below). Merchants above the micro level both research and take advantage of bespoke benefits offered in the context of non-homogeneous card-acceptance services. Competition to provide such services is vigorous and based upon a mix of price and non-price competition. There is no logical or evidential basis upon which to propose a set of one-size-fits-all remedies that do not differ between the needs of different merchants.

2.8 Accordingly, it follows that the remedies being proposed are likely to result in a disproportionate cost being incurred by card acquirers relative to the benefits from those remedies. In this context it is even more important, therefore, that the costs and benefits of any such specific remedy proposals (rather than broad categories of remedies) are accurately quantified in order to fulfil the legal requirements of proportionality.[9] This assessment must take proper account of the naturally different needs of a micro merchant compared to an SME merchant or indeed a large merchant.

Consumer remedies are not appropriate in business-to-business markets

3.1 The proposed remedies set out in the Consultation Document fail to recognise that acquirers, payments facilitators and ISOs are operating within a business-to-business environment when contracting and negotiating prices and service offerings with merchants. The remedies proposed are more akin to consumer protection measures, typically found in business-to-consumer markets.

3.2 The Final Report even applies the "*three-As framework*", which is taken from a document published by the CMA and the FCA on "*consumer facing remedies*",[10] which gives rise to a fundamental misconception in the Consultation Document that the same type of consumer facing remedies are appropriate in the context of business-to-business markets, despite prices often being individually negotiated and product offerings being tailored to individual business

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[redacted] Large merchants also have more internal resources, sophisticated purchasing teams, and greater buyer power.

9 See paragraphs 6.6-6.8 of Worldpay's response to the Interim Report.

10 Final Report, paragraph 6.2, citing CMA and FCA, '[Competition and Markets Authority and Financial Conduct Authority, Helping people get a better deal: Learning lessons about consumer facing remedies](#)' (October 2018).

needs. In this regard, all of the previous cases referred to in the Consultation Document where similar remedies have been implemented relate to consumer facing markets.[11]

3.3 The FCA has previously recognised that a balance must be achieved between the protection of small businesses and freedom of contract, and also that regulatory intervention in business-to-business markets can have harmful and unintended consequences:

> "[…] *by increasing the minimum cost to firms of serving SME customers that individually generate relatively little revenue, interventions might reduce SMEs' access to services, such as lending, or the level and quality of service available to them, or even incentivise firms to provide SMEs with unsuitable products. Regulatory uncertainty can also dampen innovation and discourage entry into the market, limiting the level of competition and choice for SMEs.*"[12]

3.4 These principles are consistently applied throughout the FCA's regulatory activity, for example, the FCA has stated the treatment of SMEs as users of financial services in its Handbook is: "*proportionate in that the smallest businesses, particularly micro enterprises, are more likely to have access to regulatory safeguards across products than larger SMEs or large corporates*".[13] This key recognition between sub-categories of SME businesses is absent from both the Final Report and the Consultation Document.

3.5 Worldpay's submissions to date have emphasised the important differences between merchants of different sizes. For example, sole traders with levels of turnover below £50,000 may share general characteristics that are similar to the characteristics exhibited by end consumers (e.g. they tend to purchase a more standardised card-acquiring product and pay based on similar tariff structures). In contrast, larger organisations with higher annual card turnover (especially above around £1 million) are more likely to negotiate prices and have bespoke and complex requirements.

3.6 The Final Report does not sufficiently distinguish between the differences between these merchant segments. For example, the evidence presented in the Final Report on searching, switching and transparency is based on the IFF Survey, which is heavily skewed towards the smallest merchants (i.e. there were very few survey respondents with annual card turnover above £1 million, and no merchants with annual card turnover above £10 million were represented in the survey). These merchants are more likely to behave similarly to consumers in some circumstances (and many of the smallest merchants, such as sole traders, are already subject to consumer protection measures under the Consumer Credit Act 1974). However, such inferences drawn from the IFF Survey data cannot be extrapolated to other merchant groups.

3.7 The Consultation Document recognises that, "*information remedies may be relatively more beneficial to smaller merchants that are less able to absorb the cost of researching options*".[14] Worldpay respectfully submits that in order for the proposed remedies to be effective, and to discharge the PSR's legal duties to ensure that any remedies imposed are proportionate, the proposed remedies should <u>only</u> be targeted at the smallest merchants. It is also important that

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11 The previous cases referred to include: (i) mortgages; (ii) retail investments; (iii) credit cards; (iv) energy markets; (v) electronic communications and Pay-TV; and (vi) customers of insurance products.

12 FCA, '[Our approach to SMEs as users of financial services]' (November 2015), paragraph 2.6.

13 FCA, '[Our approach to SMEs as users of financial services]' (November 2015), paragraph 4.12.

14 Consultation Document, paragraph 2.2.

differences between categories of merchants is accurately reflected in the PSR's cost-benefit analysis.

3.8 In summary, not only does the Final Report depart from the long-standing principle practised by the FCA and other competition regulators that regulatory intervention in business-to-business markets must be proportionate, but on its own evidence the Final Report has not identified a legal or evidential basis as would justify the imposition of remedies, with the possible exception of remedies that would be limited to only the smallest merchants.. In particular, some of the proposed remedies set out in the Consultation Document may be appropriate in the context of business-to-consumer transactions, but would not be effective nor proportionate in the context of business-to-business services.

The importance of competition on the basis of non-price factors has been understated

4.1 It is the standard approach by competition regulators to examine competition in markets having regard to elements such as service, choice, innovation or quality ("**non-price factors**"), in addition to price.[15] Non-price factors are of critical importance within the payments sector as merchants need to accept payments as seamlessly and efficiently as possible; payment outages or transactions that are rejected due to false positives represent potential lost sales revenue. Accordingly, in the context of card-acquiring services, numerous stakeholders have confirmed in their submissions that there are a wide range of price and non-price factors that drive a merchant's choice.[16]

4.2 The Final Report acknowledges that card acquirers, ISOs and payment facilitators seek to differentiate their offering and compete on the basis of various non-price factors. These include factors such as authorisation performance; customer service and support; ease and speed of onboarding and set up; fraud detection and reduction; geographic reach; integration with other products/software; omnichannel services; quality and range of value-added services; reliability and stability; settlement speed; and supporting merchants with regulatory change and changes to scheme rules.[17] The Final Report also recognises that the relative importance of these non-price factors will often vary, for example, by size of merchant or geographic presence.

4.3 The importance of non-price factors has been further compounded by vast changes that have been witnessed in the payment and card acquiring landscape in recent years, and the way in which new entry has taken place. Worldpay has submitted extensive evidence on the importance of non-price aspects of competition and the pace of change within the retail payments industry during this Market Review.[18] Other stakeholders have also confirmed that non-price aspects of competition (such as technology, quality, reliability, customer service and innovation) are "*hugely important*" to merchants, and that price is rarely the main differentiating factor.[19]

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15 CC3 Guidelines, paragraph 103. The CMA will often examine "PQRS" (Price, Quality, Range and Service) when examining mergers in retail markets. See generally CMA, 'Retail Mergers Commentary (CMA62)' (10 April 2017).

16 Final Report, paragraph 4.77.

17 Final Report, paragraph 4.65. Other potential non-price factors include the ease of adding or replacing card-acceptance products (e.g. POS terminals), ease of set-up and chargeback speed.

18 See Chapter 1 of Worldpay's response to the Interim Report, including paragraphs 1.34-1.37 on levels of competition on the basis of non-price factors.

19 Final Report, paragraph 4.77.

4.4 However, whilst the Final Report accepts that price and non-price factors are important to merchants that use card-acquiring services, it is clear that the Final Report has continued to place undue weight on only the price aspect of competition. There is no meaningful analysis or understanding in the Final Report of the importance of non-price competition or whether competition on the basis of choice, customer service, quality or innovation is working well for merchants. This is also impacting on the way in which the proposed remedies are being designed, which focus on price, as set out in the Consultation Document.

4.5 There is a real risk therefore that implementing remedies that focus primarily on the price aspects of competition will give rise to a range of unintended consequences. In particular, effective competition risks being distorted by placing undue weight on price competition at the expense of other non-price factors, which could result in a 'race to bottom' in terms of how providers compete. In an industry that is driven by technology, choice, customer service, quality and innovation, such an outcome would have adverse implications to merchants, cardholders and the card payments ecosystem overall.

Testing of the proposed remedies is a necessary pre-requisite step

5.1 In support of the proposed remedies, the Consultation Document refers to a joint FCA/CMA report titled "*Helping people get a better deal: Learning lessons about consumer facing remedies*".[20] Whilst this report specifically focuses on consumer facing markets, and therefore is largely not relevant to business-to-business markets, the report emphasises the importance of testing remedies. Worldpay submits that this is an important and pre-requisite step in all markets in which information-based remedies of the type proposed in the Consultation Document are being considered.

5.2 The proposed remedies set out in the Consultation Document aim to try and change merchant behaviour, for example to get merchants to shop around more, help them make more informed choices and switch acquirer. However, the joint FCA/CMA report emphasises that "*designing a remedy which is successful in changing consumer behaviour in the way intended is not straightforward and takes much refinement and development*".[21] Given the significant costs and practical difficulties of designing and implementing the proposed remedies, it is extremely important that the remedies are tested on merchants to ensure that they are effective, proportionate, and do not have unintended consequences.

5.3 For example, summary box information was prescribed as a remedy in the FCA's cash savings market study in 2015. The FCA implemented the remedy, prescribing the content and format of the summary box. However, after the remedies came into force, the FCA subsequently tested the effectiveness of the new disclosure requirements (including the use of the summary box) by setting up field trials involving five regulated firms and 130,000 consumers. The FCA concluded that attention to the disclosure was limited and the standardised summary box only had a modest impact. [redacted]

5.4 The outcome of the testing of remedies should also feed into the PSR's cost-benefit analysis in order to refine the analysis and ensure that the benefits are likely to outweigh the costs. As

20 Consultation Document, paragraph 2.16.

21 CMA and FCA, 'Competition and Markets Authority and Financial Conduct Authority, Helping people get a better deal: Learning lessons about consumer facing remedies', page 39.

mentioned in the Consultation Document, "*it is only where the benefits of a remedy, or remedies taken together, outweigh the costs that a regulator should pursue them*".[22]

Proposed remedies for consultation

Proposed remedy 1: summary boxes

6.1 The Consultation Document proposes that providers of card-acquiring services provide summary information boxes setting out key price and non-price service elements of card-acquiring services. The Consultation Document envisages two types of summary information:

(a) Bespoke individual summary boxes provided by card acquirers to each of their merchant customers. These summary boxes would contain tailored information for merchants about the pricing and other service information for their card-acquiring service together with consumption data.

(b) Generic summary boxes provided to all customers and potential customers on provider websites. This would involve presenting pricing and non-price information in a comparable format.

6.2 The Consultation Document states that the key feature of concern that is intended to be addressed by this remedy is that the pricing of card-acquiring services is not always transparent. In particular, that (i) acquirers and ISOs do not typically publish their prices for card-acquiring services; and (ii) that pricing structures and approaches to headline rates vary significantly between different providers of card-acquiring services.

6.3 However, the evidence presented in the Final Report suggests that this remedy is not well founded and therefore it is not clear that it will be effective in promoting switching.

What the competition problems need to be/look like

6.4 The Consultation Document states that the proposed remedy will include standardised key facts information setting out key price points and non-price service elements.

6.5 However, as mentioned above, many merchants are on tariffs that are individually negotiated and involve a bespoke service offering (often involving a number of different card-acceptance products). This means that there is a high degree of heterogeneity between merchants, and there is no such thing as a standard price or standard product. In contrast, competition regulators have previously implemented information remedies of this type primarily in the context of consumer facing markets, such as mortgages, credit cards, retail investment and insurance products (i.e. where there is no price negotiation and consumers receive a more standardised/homogenous product).

6.6 In practice, this means that this type of remedy is only likely to be relevant for the smallest merchants, on the basis that they behave more similar to consumers and are more likely to receive a more standardised product. For SME merchant segments with annual card turnover exceeding e.g. £380,000, customers will have fundamentally different business requirements for payment services, such that a requirement to provide them with a default set of price information in the form of summary boxes will be meaningless.

6.7 Whilst the inclusion of non-price service elements is well intended, non-price competition for card-acquiring services takes place across multiple different factors (as identified in the Final

22 Annex to the Consultation Document, paragraph 1.2.

Report). There is no meaningful analysis or understanding in the Final Report of the importance of different aspects of non-price competition, or whether certain aspects of non-price competition were having a detrimental impact on competition. It is therefore likely to be extremely difficult, if not impossible, to devise a solution that adequately captures the different metrics that impact on merchant choice.

6.8 In order for this type of information remedy to be an effective and proportionate solution, the evidence should demonstrate the following:

(a) that there is a high degree of homogeneity/standardisation in the product/service being provided and that prices are not individually negotiated (i.e. that the published prices represent the prices that are actually paid by customers). In sectors where prices are negotiated and the product is tailored to individual requirements (as in the case of card-acquiring services), this type of remedy is unlikely to be effective;

(b) that price is the principal determinant of competition. To the extent that there are other non-price parameters of competition that are relevant, these can be easily quantified and compared. As set out above, quality, choice and innovation are key aspects of competition for card-acquiring services, and factors on which card acquirers seek to differentiate their service. There is no simple or straightforward way in which the different non-price factors that impact on merchant choice can be compared. The FCA noted in the cash savings market study that there may have been unintended consequences of mandatory disclosure of the interest rate (i.e. a price variable) whereby consumers may overly fixate on the disclosed dimensions at the expense of other product characteristics;

(c) that a lack of published price information is directly impacting on the ability of customers to switch between alternative providers. Whilst the Final Report states that acquirers and ISOs do not typically publish their prices for card-acquiring services, and pricing structures between acquirers vary, the Final Report does not demonstrate that it is a lack of published price information that is ultimately having a detrimental effect on competition. As mentioned above, the IFF Survey evidence does not support a finding that merchants find an absence of information or lack of comparability to be a problem requiring the imposition of market remedies; on the contrary, 89% of respondents to the survey said that they receive enough information in order to understand the price they pay for card-acquiring services;

(d) there is a high degree of customer dissatisfaction in the service provided. This is likely to reflect a lack of transparency, the time and effort that customers have to invest in order to compare the offering of different providers, and difficulties in switching. In contrast, the IFF survey indicates a high degree of customer satisfaction for card acquiring. Moreover, 76% of respondents that had switched within the last two years said that the switching process was easy; and

(e) there is no prospect of a market-led solution materialising. As noted in Worldpay's response to the Interim Report, Worldpay and other card acquirers have taken steps to simplify tariffs (whilst continuing to offer merchants choice between pricing plans).[23] A number of new entrants have also entered the card payments sector by charging a simple flat rate, which reflects the process of competition working. [redacted]

[23] See paragraphs 4.34-4.37 of Worldpay's response to the Interim Report.

[redacted] Accordingly, the sector is already adjusting to reflect merchant demands, without the need for regulatory intervention.

6.9 The evidence from the IFF Survey does not support the conclusion that the availability of published prices or complexity of comparable prices are a problem for merchants which is ultimately having a detrimental impact on levels of switching. There is therefore a lack of evidence to suggest that this type of remedy is required. The proposed remedy is also more suitable for addressing concerns in consumer-type transactions. To the extent that it is likely to be an effective remedy, this is most likely to be in relation to the smallest merchants, which share characteristics that are more similar with consumers.

Initial submissions on remedy design

6.10 As noted above, summary boxes have been introduced in previous consumer market studies and there is risk of unintended consequences, such as restricting innovation or limiting non-price competition. The FCA's cash savings market study provides an example of how information remedies can have limited effectiveness and demonstrates the importance of market testing prior to remedy implementation. Worldpay would encourage the PSR to undertake further analysis and consultation before concluding whether a summary box would improve the ability of merchants to search and switch.

6.11 However, by way of an initial response to the Consultation Document, Worldpay notes that a summary box remedy should:

(a) **Be designed and targeted to support the smallest merchants.** Should the PSR proceed with a summary box remedy, Worldpay would identify the smallest the merchants as an appropriate category of merchants that may benefit from additional disclosure of information.

By way of example, it may be appropriate to provide some high-level information for merchants that contract under Worldpay's [redacted]. However, even in the case of tariffs that are specifically intended for smaller merchants, the overall proposition may still be individually negotiated with the merchant, including prices, add-ons, tenure and complementary products.

In contrast, it would not be appropriate to provide information in a summary box format for larger SME merchants, given the bespoke nature of their negotiated tariffs and the likelihood that the merchant has more complex card-acceptance requirements (e.g. multiple POS terminals, outlets, or currencies). In addition, larger merchants are unlikely to benefit from a summary box remedy as they are more likely to have the internal resources and incentives to independently shop around.

(b) **Enable providers of card-acquiring services to design the layout and select the relevant information to present to merchants**. A prescriptive remedy requiring the provision of information via a summary box would restrict the ability of providers of card-acquiring services to communicate key information about their products to merchants.

This is particularly important for SME merchants with higher levels of annual card turnover (e.g. above £380,000) that have bespoke and negotiated tariffs that are unlikely to be captured in a prescribed format. For example, the illustrative summary box presented during the PSR's webinar on 22 March 2022 [redacted]

[redacted].

Indeed, an unintended consequence of a summary box remedy is that providers of card-acquiring services may be incentivised to compete on the basis of a narrow sub-set of price factors, such as "headline" rates, by increasing margins on prices that fall outside of the summary box.

(c) **Preserve competition between providers of acquiring-services on the basis of non-price factors, including service quality and choice.** A summary box remedy that primarily focuses on price factors, to the detriment of non-price factors such as service quality, could reduce the intensity of competition and ultimately result in a loss of innovation. As explained at paragraph 4.1 above, non-price factors are important in the payments sector, merchants must be able to accept payments seamlessly and efficiently in order to maximise their sales revenue.

Moreover, a prescriptive summary box format could reduce innovation around tariff structures and limit merchant choice, especially if providers of card-acquiring services are unable to introduce new and innovative pricing formats due to the layout of the prescribed template.

6.12 Worldpay has set out its preliminary and high-level views on a summary box remedy above. However, for the avoidance of doubt, Worldpay's submissions (and submissions by other stakeholders) cannot be taken as substitutes for rigorous market testing and further consultation with direct industry participants in order to assess the impact of any remedy prior to any implementation.

Proposed remedy 2: digital comparisons tools

6.13 The Consultation Document proposes the development of DCTs for merchants as an additional information-based remedy. DCTs are expected to operate in a similar way to price comparison websites. The aim of DCTs is to provide merchants with comparable information on price and other service elements in one place, and hence make it easier for merchants to shop around.

6.14 The Consultation Document states that the key feature of concern that is intended to be addressed by DCTs is the same as for the proposed summary box remedy (i.e. that the pricing of card-acquiring services is not always transparent). In particular, that (i) acquirers and ISOs do not typically publish their prices for card-acquiring services; and (ii) that pricing structures and approaches to headline rates vary significantly between different providers of card-acquiring services.

What the competition problems need to be/look like

6.15 Competition regulators have previously implemented information remedies similar to DCTs primarily in the context of consumer facing markets (i.e. where there is no price negotiation and where consumers receive a more standardised/homogenous product). The Consultation Document even acknowledges that the CMA has defined DCTs as "*digital intermediary services used by consumers to compare and potentially to switch or purchase products or services from a range of businesses*".[24]

[24] Consultation Document, paragraph 2.23.

6.16 The characteristics of the card acquiring sector are very different. As mentioned above, many merchants are on tariffs that are individually negotiated and the card-acquiring service involves a bespoke offering. This means that there is a high degree of heterogeneity between merchants, and in practice there is no such thing as a standard price or standard product that can be easily compared using DCTs. Previous regulatory inquiries suggest that forcing a DCT remedy onto a sector with negotiated outcomes is likely to lead to a range of unintended consequences.[25]

6.17 As DCTs are expected to operate in a similar way to price comparison websites, the focus of the DCTs is likely to be on price. Remedies focussing wholly or predominantly on the price factors of card-acquiring services are likely to have unintended consequences and result in a 'race to the bottom' in terms of how providers compete. In this regard the CMA has recommended that competition regulators, and in particular the FCA, "*consider*[s] *ways to build on its existing work to facilitate accurate like-for-like comparison that incorporates non-price factors*".[26] In an industry that is driven by choice, customer service, quality and innovation, a decline in the intensity of non-price competition would have adverse implications to merchants, cardholders and the card payments system as a whole.[27]

6.18 In order for DCTs to be an effective and proportionate remedy, the evidence should demonstrate the following:

(a) that there is a clear lack of switching (or threatening to switch) across different customer groups such that merchants are not getting a good deal. However, the evidence in the Final Report does not suggest that there are concerns with the ability of merchants to search and switch acquirers. Contrary to the conclusion reached in the Final Report, levels of switching observed in the data used to support the findings are substantial, both in absolute and relative terms;

(b) there are significant costs incurred by merchants in shopping around. The IFF Survey does not support a finding that merchants find an absence of information or lack of comparability to be a problem requiring the imposition of market remedies. On the contrary, 89% of respondents said that they receive enough information in order to understand the price they pay for card-acquiring services;

(c) there are prices that can be readily compared between different providers. As prices for card-acquiring services are often negotiated and there are various different charges to reflect the cost of processing different types of transactions (which reflect the complexity of the charges set by the Schemes), there is no such thing as a standard price or standard product that can be easily compared. Prior experience by competition regulators seeking to introduce a comparison rate illustrates the pitfalls of trying to do so;[28]

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[25] In the Retail Banking Market Investigation in 2017, the CMA noted that the use of PCWs in the context of SMEs has lagged behind the consumer sector due to greater complexity of requirements and more emphasis on individual negotiation of prices.

[26] CMA, '[Digital comparison tools market study – Final report]' (2017), page 12.

[27] In the FCA's General Insurance Market Study (2021), the FCA reported that PCWs typically focus on price (i.e. ranking insurance policies by price) and do not take sufficient care to ensure consumers have the appropriate information to make educated choices across the overall product. The FCA's consumer research on PCWs also found that it can be difficult for consumers to find detailed and accessible information on products on PCWs, making it difficult to compare policies.

[28] For example, in 2014, Ofgem introduced a "Tariff Comparison Rate" (the "**TCR**") in order to facilitate comparison between domestic consumer gas and electricity supply contracts. Ofgem subsequently

(d) different non-price aspects of the card-acquiring service that influence merchant choice can be quantified and included in the DCT. As mentioned above, in an industry that is driven by choice, customer service, quality and innovation, failure to accurately measure and compare the non-price aspects of competition could lead to a range of unintended consequences. Moreover, one of the underlying concerns with price comparison websites is that the focus is almost exclusively on price;[29]

(e) there is a high degree of customer dissatisfaction in the card-acquiring service being provided. This is likely to reflect the lack of transparency and the time and effort that customers have to invest in order to compare the offering of different providers. However, as mentioned above, the IFF survey indicates a high degree of customer satisfaction for card-acquiring services; and

(f) there are no market led solutions. In this regard, merchants are regularly contacted by rival acquirers, ISOs, payment facilitators and technology specialists encouraging them to switch provider. This contact will often involve a comparison of prices and/or estimate of savings from switching. [redacted].[30] The IFF Survey also confirmed the significance of contacts with rival providers and their representatives.

6.19 Accordingly, the evidence presented in the Final Report is weak and does not support the use of DCTs as a proposed remedy. The characteristics of card-acquiring service means that DCTs are unlikely to be an effective solution, with the possible exception of the smallest merchants that share characteristics that are more similar to consumers.

Initial submissions on remedy design

6.20 The Final Report and the Consultation Document provide limited information on the intended design or operation of a DCT remedy. However, many of the challenges that arise in the context of a summary box remedy are also applicable to DCTs, particularly as regards the fee complexity that is associated with underlying interchange fees and scheme fees.

6.21 Whilst Worldpay would support the direct provision of customer information by acquirers to merchants as a remedy option, we do not consider the emergence of third party DCTs as a likely or appropriate outcome of the PSR's proposed information remedies, nor would DCTs effectively address the competition issues that the Final Report has identified. In particular:

(a) **It is unlikely that DCTs would enable like-for-like comparison between card-acquiring providers and, consequently, merchants will not use them.** Providers of card-acquiring services use and compete on the basis of a variety of different fee structures, which are normally sold as part of a wider card-acceptance proposition that includes POS terminals or card readers tailored to meet merchant requirements.

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found that there was "*near unanimous*" agreement by stakeholders that the TCR should be removed, citing evidence that the TCR "has not proved to be particularly useful to consumers" and that there was "*limited awareness and understanding*" of the TCR. Ofgem subsequently removed requirement for consumers to be presented with TCRs. Ofgem, 'Statutory Consultation: Enabling consumers to make informed choices' (30 January 2017).

29 The Consultation Document even recognises that, "*a majority of UK consumers have used DCTs for some form of price comparison*". Consultation Document, paragraph 2.26.

30 See paragraphs 5.29-5.32 of Worldpay's response to the Interim Report.

The complexity of the products offered by providers of card-acquiring services is reflected in the fact that [redacted][31] This approach ensures that [redacted]

In this context, comparisons by third party providers of DCTs, such as price comparison websites, would be prone to error. It is highly unlikely that a DCT could provide a meaningful substitute for the human interaction that merchants normally expect when shopping around for card-acquiring services. Whilst there may be scope for DCTs to provide merchants with generic information about acquirers (e.g. a list of services that they provide), it is unlikely that they could provide tailored comparison services that merchants would trust.

(b) **DCTs would narrow the parameters of competition to a sub-set of price factors**. For example, price comparison websites will often focus on providing customers with comparisons as quickly and easily as possible by focussing on the narrowest available set of criteria. This may include, for example, a comparison of card-acquiring costs based on an advertised "headline rate", which may in turn result in providers of card-acquiring services focussing on a narrower set of competitive parameters (at the expense of, e.g. quality).

(c) **The likely costs to facilitate the emergence of DCTs would be disproportionate relative to any perceived benefits.** The suggestion of an 'Open Banking' remedy through which third party intermediaries can access merchant transaction data through APIs would be extremely costly to implement, as can be seen from the CMA's Open Banking remedy itself, which by 2019 had cost retail banks in the UK more than £81 million to implement.[32] Moreover, as can be seen from the Open Banking case study, there has been limited emergence of comparison services.

Moreover, introducing a third party into the value chain would ultimately impose an additional cost on the provision of card-acquiring services that would need to be paid for by merchants (and ultimately consumers).

Proposed remedy three: contract trigger messages

6.22 The Consultation Document is proposing that acquirers should send a standardised message to merchants ahead of initial contract expiry, and then annually to trigger engagement. The aim of this type of remedy is to help merchants understand the terms of their contract and know when their contracts are due for renewal, which could prompt them to shop around.

6.23 The Consultation Document states that the key feature of concern is the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services, which means that there

31 [redacted].

32 Financial News, The cost of open banking: £81m and counting (May 2019).

is no clear trigger point for merchants to think about searching for another provider, or switching, or re-negotiating their current terms.[33]

What the competition problems need to be/look like

6.24 Worldpay disagrees with these findings. As set out in Worldpay's response to the Interim Report, there are, in fact, a number of 'trigger points' during a merchant's contractual relationship for card-acquiring services. There is also no evidence in the Final Report to support a link between the absence of trigger points and merchants' interests in searching and switching provider.

6.25 In order for contract trigger messages to be an effective and proportionate remedy, the following competition problems should be evident:

(a) merchants are unaware of the end date of their contracts and do not receive any prompts from their card acquirer that could trigger switching. However this is not the case. Worldpay merchants are subject to at least the following prompts, and Worldpay understands that other providers of card-acquiring services are likely to have at least some similar measures in place:

(i) invoices are sent to merchants [redacted], which provide a clear and significant series of trigger points for merchants;

(ii) price change notifications provide a periodic trigger point for all merchants to engage in searching and switching behaviour;

(iii) there is extensive and continuous contact by rival providers and their representatives encouraging merchants to switch;

(iv) merchants are likely to encounter competitor advertising on a very regular basis. The results of the IFF Survey confirm that these act as relevant trigger points for merchants to consider searching and switching;

(v) merchants contact the customer services departments on a regular basis. The IFF Survey indicates that these interactions with the acquirers' customer service teams are an opportunity for merchants to evaluate the service received from the card acquirer; and

(vi) as part of client relationship management, there is ongoing interaction between Worldpay and merchants. These instances constitute additional trigger points for merchants to consider their options.

Accordingly, it is not the case that merchants do not receive any prompts that could trigger switching behaviour;[34]

33 Paragraph 1.13 of the Consultation Document.

34 Research by Optimisa for the CMA in the retail banking Market Investigation, sought to obtain customer feedback on the remedies set out in the CMA retail banking market investigation, one of them being customer prompts for current account switching. The study noted that customers are more open to switching following certain "events" labelled as "push factors". These push factors included: the end of a free banking period, changing lending needs, dispute the provider, poor service, major banking error, significant changes to T&Cs, branch closure, serious loss of service eg IT failure, data security issues. These comparable push factors already exist in the supply of card-acquiring services.

(b) merchants would engage with the trigger messages proposed in the remedy, but ignore all other prompts that already exist. As set out above, there are numerous different prompts that already take place and give merchants the opportunity to engage with their acquirer and/or shop around. There is, however, an evidential gap in the Final Report as it fails to demonstrate that (i) merchants do not act on the basis of any of the prompts that already exist, but (ii) they would change behaviour in relation to the proposed remedy. If merchants do not act on the prompts that already exist, it is not clear how giving merchants further prompts will change this behaviour.[35] To the extent that this remedy is taken forward, it is imperative that it is tested on merchants to check its effectiveness and proportionality;[36]

(c) the evidence would show a clear link between the absence of trigger points and merchants' interests in searching and switching provider. However, there is nothing in the Final Report to support this premise. In particular, as mentioned above, it is not accepted that there is a lack of trigger points in relation to the contracts concerned. Moreover, the Final Report does not meaningfully analyse the significance of trigger points or their relationship with merchants' interests and contract duration. [redacted]; and

(d) switching rates would be low and merchants frequently suggest that contract duration is an issue. However, as mentioned above, the evidence in the Final Report does not suggest that there are concerns with the ability of merchants to search and switch acquirers. Contrary to the conclusion reached in the Final Report, levels of switching observed in the data are substantial, both in absolute and relative terms.

6.26 The evidence set out in the Final Report does not support the use of trigger messages as a proposed remedy. In particular, as there are a number of different prompts that already exist, it is unclear why a further prompt would be expected to change merchant behaviour such that it could be considered to be an effective remedy. It is extremely important, therefore, that if this remedy is taken forward that it is tested on merchants to check its effectiveness and proportionality.

Initial submissions on remedy design

6.27 Worldpay would support further investigation of trigger messages as a remedy option rather than other direct regulatory measures, such as imposing fixed-term contracts; however, it is important that sufficient consideration is given to the timing, content and frequency of such communications in order to minimise the burden on industry, and to ensure that it is an effective and proportionate remedy.

6.28 In particular, and by way of an initial response to the Consultation Document, Worldpay notes that a trigger message remedy should:

(a) **Be designed and targeted to support the smallest merchants.** We understand that the PSR is considering whether to link the trigger message remedy with the proposed

[35] The Accent research study in relation to the CMA retail banking investigation shows that prompt messages may not be effective even if implemented.

[36] For example, in the retail banking market investigation, the FCA undertook a programme of qualitative and quantitative research to identify which PCA prompts were likely to be the most effective.

remedy on summary boxes. Therefore, should the PSR proceed with a trigger message remedy, it would be appropriate to align the scope of these two remedies.

In addition, as noted above, it is unlikely that larger merchants would benefit from trigger messages, as they are more likely to have bespoke and negotiated arrangements, and the internal resources to independently shop around.

(b) **Ensure that providers of card-acquiring services have freedom to design and present relevant information to merchants.** It is important that providers of card-acquiring services are able to determine what information is relevant and appropriate for their merchants to receive, and how that information should be presented to them.

For example, whilst Worldpay agrees that in principle a statement of how much the acquirer paid (e.g. within the last 12 months) could be a helpful for merchants, it may not always be appropriate for acquirers to provide information on POS terminal switching (e.g. in circumstances where the POS terminal is provided by a third party vendor).

Similarly, a prescriptive requirement to provide information relating to an acquirer's cheapest tariff option could have harmful and unintended consequences; an acquirer's cheapest tariff might not be the most appropriate or even suitable for that merchant (e.g. where a merchant wants the security of paying a fixed monthly rate). A requirement to include cheapest tariff information could also result in adverse incentives for acquirers, e.g. to reduce the number of tariffs available, which would have the effect of restricting merchant choice.

(c) **Adopt existing communication channels between the provider of card-acquiring services and their merchants.** As merchants have established and preferred methods of communicating with their provider of card-acquiring services, it would be more proportionate and cost-effective for a trigger remedy to utilise these existing channels wherever possible.

For example, Worldpay would support a remedy that provides merchants with communications for each 12-month period in the form of an annual statement of account, which also could be supplemented to include a trigger message (e.g. in the form of a summary box).

6.29 Worldpay has set out its preliminary and high-level views on a contractual trigger messages remedy above. However, for the avoidance of doubt, Worldpay's submissions (and submissions by other stakeholders) cannot be taken as substitutes for market testing and further consultation with direct industry participants in order to assess the impact of this remedy prior to any implementation.

Proposed remedy four: POS terminals

6.30 The Consultation Document outlines two broad areas for remedies in relation to POS terminals, which seek to address:

(a) contractual barriers to switching (i.e. on the basis that POS terminal lease contracts may constrain a merchant's ability to switch its POS terminal which, in turn, makes it difficult for them to switch between providers of card-acquiring services); and

(b) technical barriers to switching. In particular, the PSR is considering potential options around POS terminal portability, and alternative technology solutions.

6.31 The key feature of concern referred to in the Consultation Document is that POS terminals and POS terminal contracts could prevent or discourage merchants from searching and switching between providers of card acquiring services. The Consultation Document explains that this could occur because of a combination of two factors:

(a) a merchant typically cannot use POS terminals leased from an existing provider with a new card acquirer. If it switches provider of card-acquiring services it may need a new POS terminal and to cancel its existing POS terminal contract; and

(b) a merchant could incur a significant early termination fee when cancelling its existing POS terminal contract, even if no such fee would apply when cancelling its card-acquiring services contract.[37]

6.32 However, the evidence set out in the Final Report does not indicate that these factors give rise to competition concerns, such that a remedy is required.

6.33 The PSR also appears not to fully appreciate that POS terminals are typically provided by acquirers under 'hire' rather than 'hire-purchase' contracts, and ownership of the terminal does not transfer to the merchant under the agreement. The acquirer providing the POS terminal instead commits to providing the merchant with a solution to accept face-to-face payments. This typically includes a functioning, secure and up-to-date POS terminal, and merchant support with its ongoing operation. One-off hardware costs are not the only costs of providing this service. Indeed, a material portion of the costs relate to ongoing support, distribution and operational costs, for example, providing technical support on merchant queries and replacing faulty POS terminals. Another example is facilitating the update of POS terminal firmware to support the new UK £100 contactless limit.

6.34 In the interoperable/merchant-owned POS terminal model the Consultation Document appears to be implicitly considering, it is not clear which party would provide these services or bear the cost of their provision. The management and operation of POS terminals is a complex and time consuming activity, and is the reason why only the largest merchants typically procure and manage their own POS terminal estates.

What the competition problems need to be/look like

6.35 In order for the types of remedies proposed to be required, the evidence should be able to demonstrate the following:

(a) that there is a clear and demonstrable link between the impact of POS terminals and terminal contracts on the ability of merchants to switch acquirer. However, there is no such evidence in the Final Report. The IFF Survey confirms that contractual restrictions are a negligible factor when it comes to merchants' switching decisions:

(i) only 4% of merchants who were asked to explain why they had never considered switching in the IFF Survey indicated that they felt that they could not switch provider as they were currently in a contract;[38]

37 Consultation Document, paragraph 2.76.

38 IFF Survey, slide 25.

(ii) of those merchants who responded that they had considered switching, but had decided not to, only 10% reported that this was because they were tied into a contract;[39]

(iii) when merchants were asked what would make them consider switching in the future, only 1% said that the expiry of a contract would make them consider switching in the future (with only 6 of these merchants referring to a contract with a provider of card-acceptance products (e.g. POS terminals);[40] and

(iv) of the merchants who responded that they did not shop around for different providers, only 6% of these merchants stated that this was because they were tied into a contract;[41]

(b) merchants would be looking to source POS terminals separately from card-acquiring services. As set out in Worldpay's response to the Interim Report, merchants are free to acquire POS terminals separately from card-acquiring services. This freedom to obtain POS terminals independently from acquiring services raises strong doubts as to the competition concerns raised.[42] The evidence set out in the Final Report clearly demonstrates that SME merchants prefer to source terminals and card-acquiring services together (i.e. paragraph 3.57 of the Final Report states that "*many small and medium-sized merchants prefer to one-stop shop - that is, look for one firm that offers everything they need to accept card payments*"). As such, a decision to acquire both products as a one-stop-shop is a matter of positive customer choice, reflecting the fact that such a choice provides distinct advantages to merchants;[43]

(c) merchants are unable to terminate POS terminal hire agreements before the contractual term ends without significant cost. However, this is not the case. [redacted];

(d) there is a high level of merchant dissatisfaction (i.e. on the basis that merchants are locked into a POS contract and are unable to switch without incurring a penalty). The survey evidence presented in the Final Report in fact revealed high levels of merchant satisfaction.[44] Indeed one of the main reasons merchants may not switch, including after specifically considering switching, is due to satisfaction with their current provider; and

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39 IFF Survey, slide 27.

40 IFF Survey, slide 31.

41 IFF Survey, slide 40.

42 Paragraph 5.53 of Worldpay's response to the Interim Report.

43 For example, [redacted]

44 Paragraphs 4.29-4.32 of Worldpay's response to the Interim Report.

(e) there are no benefits to merchants from the POS terminal contracts. However, longer term contracts provide merchants with the option to obtain a lower price as the fixed cost of the terminal(s) can be spread over a longer duration whilst also guaranteeing continuity of service over the extended period. Some merchants value the ability to benefit from lower monthly POS terminal costs using these longer term contracts. There are also benefits from the automatic renewal of contracts, which provides merchants with a continuity of supply and prevents service disruption, especially where for example technical integration is required in an integrated third party software solution. Such factors need to be taken into account in considering the impact of the proposed remedies.

6.36 Accordingly, there is no evidential basis presented in the Final Report for the two broad types of POS-related remedies being considered.

Initial submissions on remedy design

6.37 Worldpay has previously submitted its reservations concerning a POS terminal portability remedy in response to the Interim Report.[45] By way of an initial response to the Consultation Document, Worldpay notes that:

(a) **The market has already responded with new and innovative card-acceptance solutions.** Since the PSR announced its market review in 2018, there has been a shift towards merchants adopting low-cost and software-based card-acceptance devices, such as mPOS card readers, EPOS terminals and integrated solutions. By the time that a POS terminal remedy has been appropriately designed, consulted upon, tested and ultimately implemented, there is a high likelihood that POS terminals will have already been replaced by emerging technology and new payment solutions, in which case this remedy would be ineffective.

(b) **The technical and operational obstacles for terminal interoperability would be costly and disproportionate to overcome.** In particular, a terminal interoperability remedy would require a large programme of standardisation between acquirers, POS terminal manufacturers and other parties across the POS terminal ecosystem, which would need to ensure high-standards of security are maintained.

(c) **The implications of reforming POS terminal lease contracts are unclear and need to be explored.** It is important to recognise many of the benefits of the current leasing arrangements, which are based on hire agreements (as opposed to hire-purchase), and where merchants benefit through receiving replacements when POS terminals are damaged or reach the end of their useful life.

It is unclear how in practice merchants will continue to receive technical support for terminal issues, queries and terminal replacements in circumstances where POS terminals are ported, the relationship for provision of the POS terminal changes, or the merchant otherwise takes full ownership of the POS terminal; it is also unclear how costs would be allocated between different parties.

45 Paragraphs 6.42-6.44 of Worldpay's response to the Interim Report.

worldpay
from FIS

[redacted]