Payment Systems Regulator

Consultation paper

# Card-acquiring market remedies

## Provisional decision

June 2022

CP22/3

We welcome your views on this consultation. If you would like to provide comments, please send these to us by **5pm** on **3 August 2022**.

You can email your comments to **cards@psr.org.uk** or write to us at:

Card-acquiring Remedies Consultation
Payment Systems Regulator
12 Endeavour Square
London E20 1JN

We will consider your comments when preparing our response to this consultation.

We will make all non-confidential responses to this consultation available for public inspection.

We will not regard a standard confidentiality statement in an email message as a request for non-disclosure. If you want to claim commercial confidentiality over specific items in your response, you must identify those specific items which you claim to be commercially confidential. We may nonetheless be required to disclose all responses which include information marked as confidential in order to meet legal obligations, in particular if we are asked to disclose a confidential response under the Freedom of Information Act 2000. We will endeavour to consult you if we receive such a request. Any decision we make not to disclose a response can be reviewed by the Information Commissioner and the Information Rights Tribunal.

You can download this consultation paper from our website:
**www.psr.org.uk/publications/consultations/cp22-3-camr**

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# 1 Introduction

- Card-acquiring services enable merchants (like newsagents and supermarkets) to accept card payments.
- Our review of the card-acquiring market considered whether the supply of these services was working well for merchants, and ultimately consumers.
- We found that the supply of card-acquiring services does not work well for merchants with annual card turnover up to £50 million. These merchants could make savings by shopping around or negotiating with their current supplier, but many do not.
- In January this year, we published proposals to address the features of concern we identified in the market review, and help merchants get better deals for card-acquiring services.
- In this document, we explain our provisional decisions on remedies to address the features of concern, and we present draft directions for consultation.
- After this consultation, we will issue a final decision.

## Card-acquiring services

**1.1** Every time somebody makes a card payment – for example, when buying their weekly groceries – the merchant uses card-acquiring services to accept the payment. These services are critical to the UK economy because they enable consumers and businesses to use their cards to pay for goods and services.

**1.2** There are around 157 million cards issued in the UK, and consumers made 15.5 billion debit card payments in 2020. The crucial role card-acquiring services play in the payments sector means it is important they work well for merchants, and ultimately consumers.

**1.3** In November 2021, we published the Final Report on our review of the market for card-acquiring services.[1] Our findings included identification of three features of concern in relation to the supply of card-acquiring services. In January 2021, we published a consultation document[2] inviting comments on four potential remedies to address the features of concern. The findings of the market review, and the remedies proposals are summarised below.

1 See https://www.psr.org.uk/media/p1tlg0iw/psr-card-acquiring-market-review-final-report-november-2021.pdf

2 See https://www.psr.org.uk/media/yw2lz1c3/psr-cp22-1-camr-remedies-consultation-jan-2022.pdf

# The market review and remedies consultation

**1.4** We launched our review of the market for card-acquiring services because we had concerns that card-acquiring services may not offer value for money for merchants. As an economic regulator with a focus on competition, innovation and the interests of service users, we consider it important that merchants can shop around for a good deal, consider alternative providers or renegotiate with their current provider.

**1.5** We conducted the market review using our powers under Part 5 of the Financial Services (Banking Reform) Act 2013 (FSBRA).

**1.6** To understand whether the supply of card-acquiring services works well, in the market review we examined:

- the nature and characteristics of these services
- how providers of these services compete
- how merchants buy these services, and the price and quality outcomes they achieve
- potential barriers to entry or expansion
- potential barriers to searching or switching faced by merchants

## Features of concern for merchants

**1.7** We identified three features of concern in relation to how the market operates for merchants with turnover up to £50 million per year. These features restrict the ability and willingness of merchants to search and switch between card acquirers. The three features of concern are:

- **Acquirers and independent sales organisations (ISOs) do not typically publish their prices for card-acquiring services**. Their pricing structures and approaches to headline rates vary significantly, making it difficult for merchants to compare prices for ISOs, acquirers and payment facilitators.
- **The indefinite duration of acquirer and payment facilitator contracts for card-acquiring services** may explain, at least in part, why many merchants do not consider switching or searching for other providers regularly. This is because they do not provide a clear trigger for merchants to think about searching for another provider and switching.
- **Point-of-sale (POS) terminals and POS terminal contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services.** This can occur because of a combination of two factors:

- ○ A merchant typically cannot use its existing POS terminal 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.
- ○ 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.

- This situation can arise because POS terminal contracts can have longer initial or renewal terms than card-acquirer contracts (for example, of three and five years), and/or they may renew automatically for successive fixed terms. Early termination fees for these contracts can include, for instance, all outstanding payments due up to the end of the initial/renewal term. Therefore, there may be situations where the lack of portability of POS terminals and early termination fees for cancelling an existing POS terminal contract together prevent or discourage merchants from switching provider of card-acquiring services.

**1.8** These features of concern explain our finding that the supply of card-acquiring services does not work well for merchants with turnover up to £50 million per annum. Remedying these features of concern will improve outcomes for these merchants by:

- encouraging them to search and switch, or negotiate with their existing provider
- reducing the obstacles to switching
- subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information

**1.9** All these effects will mean that, on average, merchants will get better deals on their card-acquiring services, which will ultimately benefit consumers.

## Consultation on potential remedies

**1.10** In the January 2022 consultation document (the first remedies consultation), we invited comments from all stakeholders and requested proposals for specifications of these remedies from providers of card-acquiring services and POS terminal lease providers.

**1.11** The remedies we consulted on were:

- **Summary information boxes:** Standardised key facts information setting out key price points and non-price service elements, both in a bespoke specific format provided to each merchant, and in a generic format which would be published.
- **Stimulating digital comparison tools (DCTs):** Measures to encourage DCT entry into the card-acquiring market.

- **Trigger messages:** A standardised message sent by providers of card-acquiring services to merchants ahead of initial contract expiry, and then annually to trigger engagement.
- **Addressing barriers to switching between card-acquiring services which arise from POS terminal leases:** Ensuring POS terminal lease arrangements are not a barrier to switching between card-acquiring services

**1.12** These potential remedies and the features of concern they were designed to address are summarised in Table 1.

**Table 1: Potential remedies we consulted on**

| Feature of concern | Remedy we consulted on |
|---|---|
| **Acquirers and ISOs do not typically publish their prices for card-acquiring services. This makes it difficult for merchants to compare prices for ISOs, acquirers and payment facilitators** | Summary information boxes<br><br>Stimulating digital comparison tools (DCTs) for merchants |
| **The indefinite duration of acquirer and payment facilitator contracts for card-acquiring service means that there is no trigger for merchants to think about searching for another provider, re-negotiating their contract or switching** | Trigger messages |
| **POS terminals and POS terminal contracts can prevent or discourage merchants from searching and switching provider of card-acquiring services** | Addressing barriers to switching between card-acquiring services which arise from POS terminal leases |

**1.13** In the consultation, we also explained our approach to producing a cost benefit analysis (CBA) to assess our potential remedies.

**1.14** We received 23 responses to the consultation document. We have published all the responses with redactions for confidential information at www.psr.org.uk/publications/consultations/cp22-1-submissions.

**1.15** In addition, we engaged with key stakeholders during the consultation period, including a webinar on 22 March which was open to all stakeholders. We issued formal information requests under Section 81 of FSBRA to obtain information from providers to inform our policy analysis and CBA.

## This document

**1.16** In this document, we:

- explain our conclusions from assessment of all the evidence available to us following consultation
- set out proposals for remedies which we have developed from our conclusions
- present a draft CBA
- present draft directions to give effect to the remedies we are proposing

## Package of remedies

**1.17** Having assessed all the evidence available to us, we are now proposing three remedies to address the features of concern identified in the card-acquiring market. They are:

- Summary boxes containing bespoke key price and non-price information to be sent individually to each merchant and made available in their online account. Merchants will be able to use these alongside new online quotation tools which providers will be required to make available. This will help merchants compare all available offerings.
- Trigger messages to prompt merchants to shop around and/or switch, to be sent by providers of card-acquiring services to their merchant customers and shown prominently in their online account. The timing of these messages will be linked to minimum contract term expiry dates or, where contracts are indefinite, be required to be provided at least once every 30 working days.
- A maximum duration of 18 months for POS terminal lease and rental contracts, and maximum one month notice after any renewal.

**1.18** We have concluded that these remedies will be effective and proportionate individually and in combination to address the features of concern identified in the card-acquiring market review.

**1.19** Having reviewed the evidence after the first consultation, including the views of respondents, we are no longer proposing publication of generic summary boxes by providers.

**1.20** Having reviewed the evidence after the first consultation, including the views of respondents, we are no longer proposing direct measures to encourage DCT entry into the card-acquiring market.

**1.21** We intend to implement these remedies through specific directions given to the most significant providers of card-acquiring services to the merchants we are seeking to protect. These providers are listed in the draft directions and in Chapter 2.

1.22 We explain each of these remedies in Chapter 2, and they are summarised here in Table 2.

**Table 2: Summary of proposed remedies**

| Feature of concern | Remedy we are proposing | Changes since the first consultation | Reason for change |
|---|---|---|---|
| **Acquirers and ISOs do not typically publish their prices for card-acquiring services. This makes it difficult for merchants to compare prices for ISOs, acquirers and payment facilitators.** | Bespoke summary boxes which can be used alongside new online quotation tools | We are no longer pursuing generic summary boxes.<br>We have added the proposal for online quotation tools (i.e. this was not in the first consultation document). | Consultation responses and our analysis show that generic summary boxes are unlikely to be effective.<br>Online quotation tools will provide merchants with a more effective tool to obtain initial quotes from any provider in a format comparable with their summary box. |
| | Digital comparison tools (DCTs) | We have decided not to mandate provision of information to DCTs by acquirers. | Potential for DCTs to develop without intervention. |
| **The indefinite duration of acquirer and payment facilitator contracts for card-acquiring service means that there is no trigger for merchants to think about searching for another provider, re-negotiating their contract or switching.** | Trigger messages to prompt merchant engagement | Triggers for merchants for all types of contracts, both with minimum terms and indefinite duration.<br>More concise and targeted messaging. | Recognition of different requirements for merchants in initial minimum term contracts, and contracts with indefinite duration.<br>Target merchant more directly with switching prompt, better interlock between the trigger message and summary box. |
| **POS terminals and POS terminal contracts can prevent or discourage merchants from searching and switching provider of card-acquiring services.** | Contractual limits: 18-month maximum initial term for POS terminal lease and rental contracts, monthly notice thereafter | In the first consultation, we consulted on technical and contractual remedies. We are focusing now on contractual remedies and not pursuing technical solutions. | Consultation responses and our analysis indicate that technology is likely to ameliorate the feature of concern in the next three to five years, and hence do not support technical intervention. |

## Consultation process and next steps

1.23 We invite comments from all stakeholders and interested parties on our proposals, the draft directions and the draft CBA.

1.24 The deadline for responses to this document is **5pm** on **3 August 2022**. See Chapter 3 for information on how to respond.

1.25 We will issue a final remedies notice this year, if our findings support this, following completion of consultation on the provisional decision.

1.26 Before implementing any remedies, we are conducting an assessment of any impacts pursuant to the Public Sector Equalities Duty (PSED) under the Equality Act 2010. We will publish details of this with our final remedies notice.

## How we will evaluate and monitor the remedies

1.27 The PSR will establish a framework to evaluate merchant and consumer outcomes in the card-acquiring market. We will use this to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. We will also monitor compliance with the remedies we put in place.

1.28 We expect to review the market periodically to assess whether there is a continuing need for remedies. These reviews will include consideration of the impact of emerging payment methods (for example, account-to-account payments to merchants). In line with our statutory objectives, we will consider further interventions if we find that the remedies in place do not meet our objectives to increase merchant engagement and ensure the market works better for them. We will also withdraw remedies if we find they are no longer needed and/or effective.

1.29 In order to monitor the market and evaluate outcomes, we will use our information gathering powers to obtain relevant data. We expect this to include data to enable us to:

- Monitor compliance with the directions; and
- Evaluate the effectiveness of the remedy package, including information on:
  - Whether and to what extent average prices/fees change after the remedies have been implemented
  - Levels of searching, switching and renegotiating
  - Uptake of the online quotation tool
  - Whether the online quotation tools provide a reliable basis for comparison

- ○ The proportion of total merchant fees that the summary box metrics cover
- ○ Whether Digital Comparison Tools (DCTs) emerge and are active in the market
- ○ The impact of the 18-month POS terminal remedy on merchants that take out a new POS terminal supply contract versus those with existing contracts
- ○ The number and nature of merchant customer complaints

## Structure of this consultation document

**1.30** This remainder of this consultation document is structured as follows:

- In Chapter 2 we explain our provisional conclusions and set out the remedies we are proposing to address the features of concern.
- In Chapter 3 we explain how to respond to this consultation.
- In Annex 1 we present the draft CBA.
- In Annex 2 we present contents and format options for our proposals for summary boxes and trigger messages.
- In Annexes 3, 4, and 5 we present draft directions.

# 2 Provisional conclusions and proposed remedies

In this chapter, we explain our provisional conclusions on remedies to address the features of concern identified in the market review. The remedies are:

- Summary boxes containing bespoke key price and non-price information to be sent individually to each merchant and made available in their online account.
- Online quotation tools to enable merchants to compare offerings between providers of card-acquiring services.
- Trigger messages to prompt merchants to shop around and/or switch to be sent by providers of card-acquiring services. The timing of these messages will be linked to minimum contract term expiry dates or, where contracts are indefinite, be required to be provided at least once every 30 working days.
- A maximum duration of 18 months on POS terminal lease and rental contracts, and maximum monthly notice after any renewal.

## Introduction

**2.1** In this chapter, we explain our provisional conclusions, and proposals for remedies to address the features of concern identified in the market review.

**2.2** We have developed our proposals taking account of all the evidence available to us, including:

- the analysis and findings of the market review
- responses to consultation
- information submitted to us in response to FSBRA Section 81 information requests
- evidence submitted by stakeholders in our engagement with them
- our draft CBA

**2.3** We set out our provisional conclusions and proposals in relation to each of the potential remedies.

# Package of remedies

2.4 We have provisionally decided to introduce three remedies to address the features of concern identified in the card-acquiring market. They are:

- Summary boxes containing bespoke key price and non-price information to be sent individually to each merchant and made available in their online account. Merchants will be able to use the summary boxes alongside new online quotation tools which providers will be required to make available. This will help merchants compare all available offerings.
- Trigger messages to prompt merchants to shop around and/or switch to be sent by providers of card-acquiring services to their merchant customers, and shown prominently in their online account.
- A maximum duration of 18 months on POS terminal lease and rental contracts, and maximum monthly renewal thereafter.

2.5 These remedies will be effective individually and in combination to address the features of concern identified in the card-acquiring market review.

2.6 We are implementing these remedies to promote effective competition in the market for payment systems, and the markets for services provided by payment systems. We have concluded that this will work in the interests of those who use, or are likely to use, services provided by payment systems.

2.7 The draft CBA (Annex 1) explains how we have assessed costs and benefits. In the course of the market review and consultation on remedies, we considered other remedies to address the features of concern, including direct interventions on price and/or contract durations for card-acquiring services. These other options were discussed in the market review[3] and first consultation on remedies.[4] For the reasons explained in this document, we have provisionally concluded that the remedies set out in the document are the most effective and proportionate.

2.8 We have drafted specific directions to apply requirements to implement the remedies to the 14 most significant providers of card-acquiring services to the merchants we are seeking to protect. The draft specific directions are set out in full in Annexes 3,4 and 5 to this document.

3 See the final report: www.psr.org.uk/publications/market-reviews/mr18-1-8-card-acquiring-report-final/

4 www.psr.org.uk/publications/consultations/cp22-1-card-acquiring-market-review-initial-remedies-consultation/

## Scope of the remedies and specific directions

2.9 The providers to which these requirements will apply are the 14 providers of card-acquiring services listed in the draft directions. For ease of reference, the providers are:

- Adyen UK Limited
- Barclays Bank PLC
- Chase Paymentech Europe Limited
- Elavon Financial Services DAC
- EVO Payments International GmbH, Branch UK
- First Data Europe Limited
- First Merchant Processing (Ireland) DAC
- GPUK LLP
- Lloyds Bank plc
- PayPal (Europe) Sarl et Cie SCA
- Square UK
- Stripe Payments UK Ltd
- SumUp Payments Limited
- Worldpay (UK) Limited

2.10 These providers have been identified as the most significant providers of card-acquiring services to the merchants we are seeking to protect. The PSR identified these providers based on volumes and value of transactions processed, and the numbers of small and medium sized merchant customers served.

2.11 We have decided it is not necessary to apply a general direction (to the whole market) since the providers subject to the specific directions account for around 95% of retailer transactions in the UK. We have concluded that this is sufficient to ensure that the competitive benefits of the proposed remedies will be realised, and hence is the most effective and proportionate way to address the features of concern. The listed providers are Payment Service Providers (PSPs), some of which are card acquirers, and some payment facilitators (providing card-acquiring services alongside other goods and/or services). The remedies will promote competition and protect merchants that consume card-acquiring services.

**2.12** The PSR will keep the companies directed under review, and will consider extending the mandate through a general direction, or directions on the card schemes, if necessary.

**2.13** The remedies which will address the features of concern relating to price transparency (summary boxes and online quotation tools) and the indefinite nature of some contracts (trigger messages) will apply to the directed providers in respect of their merchant customers with a card turnover up to £50 million. These are the merchants we identified in the market review as suffering harm as a result of these features.

**2.14** The remedy which will address the feature of concern in relation to POS terminals and POS terminal contracts will apply to the directed providers in respect of their merchant customers with a card turnover of up to £10 million. This is because we identified that large merchants with annual card turnover above £10 million are more likely to buy only card-acquiring services from their acquirer and source card acceptance products, including POS terminal, from third parties. These arrangements mean these merchants are less likely to be prevented or discouraged from searching and switching acquirer by POS terminals and POS terminal contracts.

**2.15** Where a directed PSP provides services to a merchant through an independent sales organisation (ISO), the PSP will be required to ensure that the relevant ISO complies with the applicable direction.

**2.16** In relation to the remedy imposing contract duration restrictions for POS terminal lease and rental agreements, we will require directed PSPs to ensure that POS terminal lease or rental providers that supply their merchant customers do so in compliance with the requirements of the remedy (as set out in the specific direction).

## Implementation period

**2.17** We have provisionally decided that the remedies will be required to be in place and fully implemented no later than three months after the final directions are given. In our stakeholder engagement, providers have indicated that this would be a reasonable period for implementation given the systems requirements for the remdies we plan to introduce.

## The remedies

**2.18** In the remainder of this chapter we explain our provisional conclusions for each remedy, and our supporting rationale including a summary of responses to consultation for each remedy. The explanation is structured to explain the remedies according to the feature of concern they are designed to address.

## Remedies to address the feature of concern that acquirers and independent sales organisations (ISOs) do not typically publish their prices for card-acquiring services

**2.19** In the final report, we found that a feature of concern in the card-acquiring market arises from acquirers and ISOs not typically publishing their prices for card-acquiring services. This makes it difficult for merchants to compare prices between different providers, including acquirers and payment facilitators. We have provisionally concluded that remedies targeted at price transparency will be a more effective and proportionate way to address this than a direct intervention on prices or price structures, and this is explained below.

**2.20** We set out our intention to investigate the provision of summary information boxes by providers of card-acquiring services to their merchant customers. We said that this would improve merchants' ability to search and switch between providers of card-acquiring services as summary information boxes could promote simplification of prices and make comparison easier.

**2.21** We outlined our plans to consider two types of summary information box:

- Bespoke individual summary boxes provided by providers of card-acquiring services and ISOs to each of their merchant customers. These would contain tailored information for merchants about the pricing and other service information for their card-acquiring service together with consumption data. Individual summary boxes could also give merchants information on options to migrate to other tariffs or switch provider.
- Generic summary boxes made available on provider websites. This would enable merchants to quickly assess pricing and service options across a range of acquirers.

**2.22** The second potential remedy to address lack of price transparency discussed in the first remedies consultation document was Digital Comparison Tools (DCTs). We noted that the development of DCTs could help merchants search between card-acquiring services where they want to. We said that DCTs have the potential to provide merchants with comparable information on price and other service elements in one place, and hence make it easier to shop around.

**2.23** We acknowledged that the card-acquiring market has some characteristics which may make it challenging for DCTs to operate. We discussed possible changes which might mitigate these challenges. For example:

- Provision of pricing and other comparable service information to DCTs by providers of card-acquiring services, to enable the creation of price comparison tools.
- Collation and presentation of comparative pricing and other service data updated regularly in formats which are easily usable by DCTs.

- Enabling merchants to share their acquirer transaction data with third parties so this can be used by DCTs to assess merchant options, where merchants want to do this and have consented to it.

**2.24** We said we were considering setting up a feasibility study to help us understand the potential role of DCTs for card-acquiring services.

### Responses to consultation on summary boxes

**2.25** In their responses to the consultation, stakeholders expressed broad levels of support for the concept of summary boxes. They recognised that these would allow merchants to compare providers' prices and services, and encourage them to shop around.

**2.26** Respondents were more supportive of bespoke summary boxes than generic summary boxes. A number commented that generic summary boxes would not be effective because of the non-uniform nature of pricing for card-acquiring services.

**2.27** Some respondents identified a number of issues which would be relevant to the design and effectiveness of summary boxes. For example, the many different definitions used by providers makes it difficult for merchants to make a genuine comparison between providers.

**2.28** Respondents recognised the importance of non-price service elements. Some said that inclusion of these in comparative information was important to facilitate more like-for-like comparisons.

**2.29** Some respondents said that individual negotiations continue to be important and the predominant method for merchants to procure card-acquiring services. Some thought that summary boxes would therefore not be helpful to merchants.

**2.30** Some respondents called for trials of summary boxes prior to any implementation.

### Our provisional conclusions on summary boxes

**2.31** Based on our updated analysis following consultation which is described in this document and the CBA (Annex 1), the balance of evidence is that whilst bespoke summary boxes will be effective, generic summary boxes have less potential to deliver merchant benefit and will therefore not be effective.

**2.32** This is primarily because the non-uniform nature of CAS pricing means that merchants will derive far greater benefit from information which is tailored to their particular usage and needs.

**2.33** We have modified our position to reflect this.

**2.34** Summary boxes can help merchants engage by presenting comparable options for card-acquiring services. This will enable them to make comparisons between offerings before engaging directly with providers, and can be complementary to a merchant's ability to negotiate. We also recognise that some merchants do not have time to negotiate, or do not feel confident about doing so.[5] Summary boxes can help these merchants and provide a complementary facility to help merchants who wish to negotiate.

**2.35** We are conducting research to market-test design options, and these will be completed before we issue our final directions.

### Format and content of summary boxes

**2.36** Because pricing and other service information provided by providers of card-acquiring services varies is difficult to compare and is not available in standardised format, we have provisionally concluded that summary boxes will be required to be provided in a prescribed format which will be published by the PSR.

**2.37** We are working on the design for this format. We have commissioned research to market test a number of design options for summary boxes, and this will take account of design proposals we have received from stakeholders. We expect to complete the market testing this summer, and will include the results and conclusions when we publish our final decision on our proposed remedies. We will consider issuing guidance on summary boxes to ensure they contain all relevant information needed to help merchants, and minimise risks that they are not comparable between providers.[6] We are also consulting on the format for summary boxes. The options we have presented for market testing, including our preferred option, are included with this document at Annex 2, and we invite comments on these options.

**2.38** Summary boxes will be provided to merchants with the monthly billing information provided to them by their provider. This is a cost effective and efficient method of delivery using an existing communications method. They will also be required to be shown prominently in the merchants' online account.

**2.39** Summary boxes will contain clear information on key features of card-acquiring services to help merchants compare offerings between providers. This information will cover information about the individual merchant, key price information and key non-price information. Subject to the further work we are undertaking, this could include:

- the expiry date of the merchant's contract or minimum contract term, or a statement that the contract does not have a minimum term
- total charges for card-acquiring services and associated services for the previous 12 months, or from the date the merchant started consuming card-acquiring services if this is less than 12 months before the summary box is issued

5 Merchants identified these factors in qualitative research undertaken by the PSR in 2021.

6 This might, for example, include non-Visa and non-Mastercard transactions.

- the total value of card transactions over the previous 12 months, or from the date the merchant started consuming card-acquiring services if this is less than 12 months before the summary box is issued
- the average transaction value for card transactions
- merchant service charges for the following types of domestic card transactions, both card present and card not present transactions:
  - Visa consumer debit
  - Visa consumer credit
  - Mastercard consumer debit
  - Mastercard consumer credit
- any additional charges applied to individual transactions
- settlement times
- the range of payment brands accepted by the merchant
- the percentage of transactions which are successfully authorised (the authorisation rate)

**Online quotation tools**

**2.40** We have decided not to proceed with the proposal for generic summary boxes which we set out in the first consultation document. There was not strong support for this idea from respondents to the consultation, and some said that generic summary boxes were unlikely to be effective because of the non-uniform nature of pricing for card-acquiring services. Having reviewed all the evidence available to us after consultation, we agree with this view.

**2.41** We have considered whether other remedies might also drive merchant engagement and help them to search and switch using the information they have in their own summary box. Our objective for generic summary boxes, when we proposed them, was to help compare their current service with potential alternatives. Therefore, we have looked at ways in which price and service information might be made more easily available to any merchant who wishes to investigate options beyond the information they will have in their own bespoke summary box. If merchants are able to use their bespoke personalised summary box information as a basis to compare alternative options, it would be useful for them to have access to tools to help them with this.

**2.42** From this analysis we have concluded that merchants would benefit from access to online quotation tools. We have therefore provisionally decided to require providers to give access to an online quotation tool for anyone who wants to use it (that is, not just their own merchant customers).

2.43 We propose that the indicative pricing information generated by using a provider's online quotation tool will be made available in a format to be prescribed by the PSR. This format will be published, and we will issue it with our final decision on our proposed remedies. To help merchants comparing their own service with other providers, the format we will publish will be based very closely on the prescribed summary box format, making like-for-like comparison as easy as possible.

2.44 The online quotation tool will be required to be sited prominently on each provider's website. Any merchant will then be able to obtain an indicative quote for card-acquiring services by entering information into the calculator.

2.45 The summary box and online quotation tools will be transparently linked, and the opportunity to use online quotation tools will be signposted from every merchant's summary box.

2.46 For merchants without summary box information (either they do not currently accept cards or receive card-acquiring services from a provider that is not covered by our proposed directions), it will still be possible to use online quotation tools using estimated information to obtain initial indicative quotes.

2.47 The online quotation tool will be required to be sited prominently on each provider's website. Any merchant will then be able to obtain an indicative quote for card-acquiring services by entering information into the calculator.

2.48 As noted, pricing structures for card-acquiring services are not uniform, and so online quotation tools will not be a suitable way for merchants to obtain complete and precise quotes. This will need to be made clear in information and instructions on how to use the online quotation tools. However, they have the potential to enable merchants to compare a number of indicative quotes more easily than they can now and follow up with providers if they wish.

**Responses to consultation on Digital Comparison Tools (DCTs)**

2.49 Some respondents felt that DCTs could be helpful to merchants.

2.50 However, a number of respondents identified difficulties in implementing DCTs, and doubted there would be strong commercial incentives to develop them because of some of the complexities inherent in the pricing of card-acquiring services. For example, they pointed to the potentially high costs of developing API interfaces for exchange of data.

2.51 Respondents also pointed to differences between consumer markets in which DCTs have been successful in other sectors and card-acquiring which is a business-to-business market.

2.52 Some respondents thought there would be obstacles to DCTs, including pricing complexity, unwillingness of merchants to share data, and availability of comparable data from merchants. Some said we would need to regulate the DCTs to ensure they provide accurate and complete comparisons.

2.53 Where there was support for DCTs, respondents pointed out that they should present accurate comparisons and enable merchants to assess price and non-price elements of service.

### Our conclusions on DCTs

2.54 As noted above, in responses to consultation, some stakeholders agreed that DCTs may be helpful for merchants trying to compare competing offerings from providers of card-acquiring services. This is consistent with evidence we gathered in qualitative research for the market review, where merchants told us they would welcome impartial comparison tools.[7]

2.55 On the other hand, some stakeholders expressed reservations about the feasibility of DCTs. They noted that card-acquiring services and pricing are relatively complex when compared to some consumer markets where DCTs have been introduced.

2.56 We acknowledge this. However, while card-acquiring is not a consumer market, this point on its own does not mean that DCTs could not help merchants make effective choices. Many of the merchants in the group that will be protected by the remedies we are putting in place (those with annual turnover below of £50 million) are small businesses that share characteristics with residential consumers of services – for example, they do not have access to dedicated procurement expertise to help compare complex offerings.

2.57 Also, we do not think price complexity is a characteristic which should exclude price comparison services from a market. On the contrary, complexity is a feature which, other things being equal, is likely to mean that consumers/merchants would benefit from the sort of help they can get from comparison services.

2.58 As we noted in the first remedies consultation document, some online facilities are already available to merchants to help them. For example, services are available which enable a number of suppliers to provide quotes to merchants. However, these services do not provide a fully comprehensive price and service comparison, and we have concluded that there is potential for these or other services to develop to improve service comparison facilities for merchants.

7 Merchants identified these factors in qualitative research undertaken by the PSR in 2021.

**2.59** We have identified strong linkages between the potential development of DCTs and other information remedies we will implement. In particular, we expect the creation of online calculator tools by providers of card-acquiring services to facilitate opportunities for intermediaries to develop comparison tools. For example:

- intermediaries could provide comparisons between providers of card-acquiring services for any merchant that can provide consumption data
- comparative pricing information could be generated using the price calculator tool for each provider of card-acquiring services for generic typical merchant profiles

**2.60** We have provisionally concluded that the information remedies we propose to introduce to address the feature of concern on price transparency (that is, summary box and online quotation tools) will be effective and proportionate. Therefore, we do not propose to intervene directly to facilitate the development of DCTs. We note that the remedies we do intend to introduce, and particularly the online quotation tool, have the potential to unlock opportunities and stimulate DCTs in the card-acquiring market.

**2.61** We propose to include merchant price comparison capability in our monitoring of the card-acquiring market. For example, we may look at:

- whether merchant engagement and ability to compare services improves following the introduction of our other remedies
- whether intermediaries emerge to create price and service comparison tools, including DCTs
- if new comparison tools, including DCTs, are available, whether they are effective in providing comprehensive and accurate information to merchants who are considering switching between card-acquiring services
- whether new points of comparison become relevant or important for merchants – for example, between card and direct account-to-account payments to merchants
- whether the development of open finance will stimulate and support price comparison in the card-acquiring market

**2.62** The PSR will review options for regulation in this area if there is evidence, through our market monitoring or from other sources, that merchants are unable to compare services effectively, including if this results from inaccuracy of information available through price comparison services.

**2.63** At this stage we have decided not to pursue a feasibility study for DCTs, which was mentioned in the first remedies consultation. Our decision not to intervene directly to facilitate DCTs means that we do not think it is appropriate to conduct our own experimental or feasibility study.

**Decision on remedies to address the feature of concern that acquirers and ISOs do not typically publish their prices for card-acquiring services**

**2.64** To address the feature of concern that acquirers and ISOs do not typically publish their prices for card-acquiring services and this can make it difficult for merchants to search and switch between card-acquiring services, we have provisionally decided to:

- mandate the provision of bespoke summary boxes to every merchant customer of the directed providers with annual card turnover up to £50 million
- require directed providers to make online quotation tools available, enabling merchants to compare offerings using information from their bespoke summary box

**2.65** We are satisfied that the remedy will be the most effective and proportionate means by which to address the feature of concern.

**2.66** In reaching this decision, we are also mindful of the requirements to provide information set out in Articles 9 and 12 of the Interchange Fee Regulation (IFR)[8] which deal with the 'unblending' of charges and information to merchants about card transactions. This direction is intended to supplement the IFR requirements and does not interfere with the obligations set out in that legislation. In particular, the summary box and online quotation tools will enable merchants to engage with their options and compare offerings more effectively before and at the point of purchase, whereas IFR requirements deal with transparency of for existing merchant customers.

## Remedies to address the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services

**2.67** In the final report, we explained that the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services was a feature of concern because there was no clear trigger for merchants to think about searching for another provider, switching, or renegotiating their current terms.

**2.68** In the first remedies consultation document, we sought views on remedies to address this feature of concern. We suggested that merchant engagement and outcomes could be improved if providers of card-acquiring services provide information to them at specified trigger points to prompt engagement. We discussed and invited comments on the content, timing and method of delivery for trigger messages.

8 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32015R0751. The Interchange Fee Regulation (IFR) can be found at https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32015R0751

### Responses to consultation

**2.69** A number of respondents agreed that regulatory intervention to provide information to merchants at specified times to trigger or prompt engagement would be beneficial and could be linked to other remedies such as the summary boxes.

**2.70** There was support for the timing of trigger messages to be linked to contract minimum term end dates.

**2.71** Various views were expressed on the content of trigger messages. Some felt that providers should have discretion on this, whereas others expressed the view that standardisation is needed to provide consistent support for merchants.

**2.72** Respondents that opposed trigger messages suggested that they might induce inappropriate responses from merchants – for example, 'panic' if merchants feel compelled to look for a new provider.

**2.73** Some respondents called for trials before implementation of trigger messages.

### Our provisional conclusions on trigger remedies

**2.74** We have considered all the evidence available, and our conclusions and provisional decision are explained here.

**2.75** In their responses to the consultation, stakeholders generally agreed that prompts may be helpful for merchants to enable them to benefit from competing offerings from providers of card-acquiring services. Our conclusions – taking account of all the evidence as explained in this document and the CBA (Annex 1) – is that trigger messages will help meet our objective to encourage merchants to search and switch, or negotiate a better deal with their existing provider. If trigger messages are designed and delivered well we are confident there is no risk of inappropriate responses ('panic') by merchants, and we note contract triggers have been successful driving engagement in other markets with good consumer responses.[9]

**2.76** We have provisionally decided to mandate trigger messages as a remedy to address the feature of concern.

**2.77** We have considered further the content, timing and method of delivery of trigger messages.

**2.78** We have developed our analysis on the timing of delivery of trigger messages. We recognised that broadly we need to address two types of contract to design an effective remedy:

9 For example, in telecommunications – see see www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-get-better-deals

a. Contracts where there is a minimum term

b. Indefinite contracts with no minimum term

### Design and content of trigger messages

**2.79** We have provisionally concluded that trigger messages will be required to contain wording and conform to a format prescribed by the PSR. This will be important to ensure that merchants are given consistent prompts and information, irrespective of their provider or services they consume. Trigger messages will be required to include information to prompt them to shop around if they wish to, and signpost information and facilities to help them do this.

**2.80** We are working on the design for the wording and format, and will market-test options for this alongside the design options for summary boxes. We will include the results and conclusions when we publish our final decision on our proposed remedies. The options for trigger message wording and format are included in Annex 2, and we invite comments on these.

### Timing of trigger messages

**2.81** For contracts with a minimum term, we considered whether merchants should receive monthly messages to remind them of the benefits of shopping around. We concluded that this would likely cause trigger messages to become too familiar and hence go unnoticed. We considered evidence from other markets that triggers received too early or too frequently can be less effective.[10] We also took account of the timing of prompt messages required by Ofcom to be sent to telecoms consumers close to the end of their contracts. The requirement is for these messages to be sent between 10 and 40 days before the ending of a contract. We note that Ofcom research has shown the prompts to be effective in improving outcomes for consumers in telecoms markets.[11]

**2.82** We have provisionally concluded that trigger messages to encourage merchants to shop around will best be delivered in ways which will enable them to see these messages alongside other relevant contract information, and to validate that the message comes from their provider. To facilitate this, trigger messages are likely to be helpful if they are seen together with other regular communications from providers.

**2.83** We have therefore provisionally concluded the following on method of delivery of trigger messages:

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10 For example, Ofcom's analysis of automatically renewable contracts included consideration that individuals can face difficulties making forward-looking decisions because of the natural challenges which occur in predicting future circumstances – www.ofcom.org.uk/__data/assets/pdf_file/0024/27870/Automatically-renewable-contracts.pdf, page 21

11 We note that, since the first remedies consultation, Ofcom has published further evidence that consumers are getting better telecoms deals since rules were introduced requiring reminders that their contract is ending. We referenced this as relevant evidence supporting a contract trigger remedy in the first remedies consultation, and Ofcom's further research shows that the intervention is effective in improving outcomes for consumers in telecoms markets – see www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-get-better-deals

- Trigger messages must be included in the monthly invoice sent to the merchant.
  - Where the merchant has a contract with a minimum term (initial or renewed), the trigger message must be included with the invoice sent closest to the date which is 30 calendar days before the expiry of the inimum term.
  - Where the merchant has a contract with no minimum term, (that is, one which lasts for an indefinite period), the trigger message must be sent with each invoice at least monthly.
- Trigger messages must also be shown prominently to the merchant in their online account.
  - Where the merchant has a contract with a minimum term (initial or renewed), the trigger message must be continuously available online between the date 30 calendar days before the expiry of the initial minimum term and the date on which the initial minimum term expires.
  - Where the merchant has a contract with no minimum term, the trigger message must be shown prominently to the merchant in their online account.

**Provisional decision on remedies to address the the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services**

**2.84** To address the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services, we have provisionally decided to mandate the provision of trigger messages to every merchant customer of the directed providers who has annual card turnover up to £50 million.

**2.85** We are satisfied that the remedy will be the most effective and proportionate means by which to address the feature of concern.

## Remedies to address POS terminals and POS terminal contracts that discourage merchants from searching and switching provider of card-acquiring services

**2.86** In the final report we confirmed that we had identified POS terminals and POS terminal lease contracts that prevent or discourage merchants from switching provider of card-acquiring services as a feature of concern in the card-acquiring market.

**2.87** In the first remedies consultation document we discussed some possible approaches to remedies to address this feature of concern.

**2.88** POS terminals and the contracts through which they are provided to merchants are intrinsically linked to the card-acquiring market because:

- merchants selling face to face need a card acceptance device (for example, a POS terminal or card reader) to capture card details

- 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)
- the merchant survey found that small and medium-sized merchants prefer to use a one-stop shop
- a merchant switching provider will generally need to terminate their contract for card-acquiring services and their contract for their POS terminal together

**2.89** Because POS terminals typically only operate with one card-acquirer, merchants wishing to switch between providers of card-acquiring services also face the prospect of having to obtain a new POS terminal. This may:

- be inconvenient for merchants that would prefer to keep their existing POS terminal; and/or
- result in a significant financial penalty if the merchant wishes to switch between card-acquiring services before the POS terminal lease contract minimum term has expired

**2.90** In the market review we concluded that these factors are likely to prevent or discourage merchants from searching and switching between providers of card-acquiring services, and hence they raise barriers to switching.

**2.91** In the first remedies consultation document we discussed ways to address these factors in two broad areas:

- **Contractual barriers to switching,** where POS terminal lease contracts may constrain a merchant's ability to switch its terminal, and therefore also make it difficult to switch between providers of card-acquiring services. For example, financial penalties (early termination charges) may be payable by customers that wish to switch before the end of their POS terminal lease contract.
- **Technical barriers to switching** – for example, lack of interoperability of POS terminals with an alternative card-acquiring service.

**2.92** We noted that contractual and technical barriers, and their impacts on card-acquiring, overlap. As such, our work on potential concerns and remedies also considers interactions between contractual and technical factors.

**2.93** In relation to contractual barriers to switching, we explained that minimum-term contracts in combination with termination clauses can have the effect of reducing competitive intensity in a market by discouraging or preventing switching.

**2.94** On the other hand, we also noted that minimum-term contracts in the supply of goods or services are common in some markets, and we acknowledged that these could have benefits to the purchaser – for example, when linked to spreading payments for an expensive item over time.

**2.95** We did not propose contractual remedies at that stage. We said we would prioritise investigation of remedies to technical barriers to switching, and that we would engage with stakeholders and consider evidence submitted in response. We discussed, and sought views on:

- replacement of terminals by POS terminal lease providers to support merchants switching between card-acquiring services
- portability[12] of POS terminals when a merchant switches between card-acquiring services

**2.96** In our assessment of evidence in relation to POS terminals, we noted that we would need to consider:

- the technology landscape and the impact of emerging payment solutions on this feature of concern
- trends in customer and merchant behaviour
- whether there would be impacts on competition and/or commercial consequences of introducing POS terminal portability

### Responses to consultation

**2.97** Some respondents acknowledged difficulties for merchants which can result from the fragmented supply of card-acquiring services and POS terminals.

**2.98** However, most respondents who commented on technical remedies identified a number of potential challenges. These included technically and operationally complex implementation creating risks in the event of a technical intervention. Respondents also said this would be costly.

**2.99** Some respondents submitted comments saying that market developments in the foreseeable future are likely to mean merchants are less dependent on POS terminals.

**2.100** A number of respondents expressed support for contractual reform to make switching easier for merchants. Some pointed out that some providers are willing to cover POS terminal cancellation and switching costs.

### Our conclusions on POS terminals and POS terminal lease and rental agreements

**2.101** We have considered all the evidence available and our provisional decision is explained here.

12 Portability means the ability to use the same POS terminal when a merchant switches between acquirers.

### Technical remedies

**2.102** In the first remedies consultation, we said we would consider whether remedies to technical barriers to switching would address the feature of concern in relation to POS terminals and POS terminal lease contracts. We considered interoperability of POS terminals between card-acquiring services, and the associated potential for portability of POS terminals, meaning merchants would be able to keep the same POS terminal(s) when switching between card-acquiring services.

**2.103** We identified potential benefits to POS terminal portability, including:

- elimination of POS terminal termination fees paid by merchants when they switch between card-acquiring services
- greater switching between card-acquiring services
- enhanced competition in the card-acquiring market as barriers to switching are lowered through easier POS terminal switching; this can lead to greater savings for merchants purchasing card-acquiring services
- environmental benefits resulting from reduced need to replace POS terminals

**2.104** In responses to our consultation, stakeholders expressed the view that POS terminal portability would be a complicated remedy and likely to be costly to implement. We have further discussed this with industry stakeholders and taken expert technical advice.

**2.105** We have also considered the technology landscape, and how this may affect the market. Two factors are particularly relevant here.

**2.106** Firstly, POS terminals are increasingly multi-functional, incorporating and integrating with other electronic point of sale (EPOS) systems which can include accounting, stock control and other elements. This 'bundling' of functions is often configured in a way which is particular to a card-aquiring service provider. Combinations of services and functions can be convenient for merchants, giving them access to increasingly integrated and easy-to-use systems to support their business. On the other hand, bundling of services and functions usually makes switching harder, and so can affect competition.

**2.107** Secondly, there is innovation in card acceptance technology, with card readers in common use by some merchant groups and the emergence of software and mobile phone-based applications.

**2.108** Taking these factors together, we have provisionally decided not to mandate POS terminal portability. We have concluded that this regulatory intervention is not appropriate for the following reasons:

- Technology appears to be providing alternative more flexible card acceptance options for merchants. We cannot predict with certainty how this will affect the market, but we expect it to improve the landscape for merchants and competition, offering merchants more choice which can be better tailored to their business. Regulatory intervention could have the undesirable effect of dampening innovation in card acceptance technology and services, and therefore, at this stage, we do not think it is effective and proportionate to mandate technical remedies to address the feature of concern.

- The benefits we have identified through portability can also be achieved by less costly contractual remedies, as explained below. At this stage, therefore, we have provisionaly concluded that it is more effective and proportionate to pursure contractual remedies.

**2.109** That is not to say that portability could not deliver benefits to merchants and competition. It is possible that the market and/or technology will move in a way which makes it increasingly desirable. It is also possible that POS terminal lease providers, providers of card-acquiring services or new entrant innovators will develop commercial solutions to provide portability outside of regulation. We will monitor developments in this area of the market.

### Contractual remedies

**2.110** In the first consultation document we said that, if we found it is not possible or appropriate at this stage to address the feature of concern through technical remedies, we would consider taking action to address contractual barriers directly.

**2.111** As we have concluded that we will not mandate POS terminal portability or pursue other technical remedies, we have considered whether contractual solutions are available to support quick and easy POS terminal lease termination where a merchant wants to switch between card-acquiring services.

**2.112** There was support from respondents to the first consultation document for regulatory reform of POS terminal lease and rental contracts, to support switching between card-acquiring services.

**2.113** Taking account of all the available evidence, we have provisionally concluded that the duration of POS terminal lease and rental contract initial minimum term periods should be no greater than 18 months and that, after the expiry of inital minimum terms, contracts that do not terminate immediately at the minimum term should move to rolling renewal terms of no greater than monthly. The requirement to limit POS terminal contracts to a maximum term of 18 months will apply to all new contracts, and contract renewals.

**2.114** Directed PSPs will need to ensure that POS terminal lease or rental providers that supply their merchant customers do so in compliance with the requirements of the remedy. In some cases, merchants procure POS terminals from a third party, independently of the PSP providing them with card-acquiring services, but this is not common for the segment of the market that we are considering (merchants with up to £10 million annual card turnover), and hence we have concluded that the remedy will be effective in protecting this group of merchants.

**2.115** The cap will also mitigate the impact on merchants of early termination or cancellation fees. We expect that, as a result of the remedy, the use of longer lease contracts for POS terminals will decrease and consequently decrease costs at termination.

**2.116** In reaching this provisional conclusion, we have been mindful of potential impacts on merchants and on competition. In particular, we have considered the benefits of minimum term contracts enabling merchants to spread the costs of POS terminals, and lease and rental providers to minimise risks that they will not recover reasonable costs. As part of our assessment we have spoken to providers of card-acquiring services and POS terminal lease providers. Our conclusion from these discussions is that 18 months is a reasonable period over which to recover POS terminal costs, and that applying this remedy will not disrupt competition or reasonable commercial models.

**Provisional decision to address the feature of concern in relation to POS terminals and POS terminal contracts that discourage merchants from searching and switching provider**

**2.117** We have provisionally decided to mandate that duration of POS terminal lease and rental contract initial minimum term periods should be no greater than 18 months. In addition, after the expiry of initial minimum terms, contracts that do not terminate immediately at the minimum term should move to rolling renewal terms of no greater than 30 calendar days. This remedy will apply to POS terminals and POS terminal lease and rental contracts supplied to merchant customers of the directed providers in respect of their merchant customers with a card turnover of up to £10 million.

**2.118** We are satisfied that the remedy will be the most effective and proportionate means by which to address the feature of concern.

## The remedies will work individually or in combination

**2.119** We expect the remedies we are proposing to work effectively and proportionately individually, in combinations or as a package.

**2.120** We have described our conclusions in relation to each remedy earlier in this chapter. Each of them, considered individually, would improve the ability of merchants to engage with their options in the market by searching for better deals and switching if they wish. In the CBA (Annex 1) we demonstrate that the benefits of each remedy would outweigh its costs.

**2.121** While each remedy would be effective and proportionate individually, we have concluded that they will be more so in combinations and as a package. For example, the limit on duration of POS terminal lease and rental contracts will reduce current barriers to switching between card-acquiring services. Merchants will be more likely to explore opportunities to switch as they receive information in their summary box and timely trigger messages to prompt engagement, and can compare offerings using quotation tools.

**2.122** In the CBA, we also explain how:

- overall costs would be lower for a package of remedies than the sum of their parts, because some costs of implementation may be shared
- the benefits flowing from the remedy options may also be higher in combination than on a stand-alone basis, as the measures could work together to facilitate engagement more effectively together than if implemented individually

# 3 Responding to this consultation

**3.1** We invite comments from stakeholders on:

- Our provisional decisions explained in this document to impose the following remedies:
    - Summary boxes containing bespoke individual key price and non-price information to be sent individually to each merchant and made available in their online account, and online quotation tools to be made publicly available by providers of card-acquiring services.
    - Trigger messages to prompt merchants to shop around and/or switch to be sent by providers of card-acquiring services to their merchant customers and shown prominently in their online account.
    - A maximum duration of 18 months on POS terminal lease and rental contracts, and maximum monthly notice after any renewal. Directed PSPs will be required to ensure that POS terminal lease or rental providers who supply their merchant customers do so in compliance with the requirements of the remedy.
- These remedies to be in place and implemented no later than three months after the directions are made.
- These remedies to be implemented through specific directions made on the PSPs listed in the draft directions (see Annex 3, 4 and 5).
- Summary boxes, online quotation tools and trigger messages to be implemented for all merchant customers of directed providers with turnover below £50 million.
- POS terminal contractual remedies to be implemented for all merchant customers of directed providers with turnover below £10 million.
- Where a directed PSP provides services to a merchant through an independent sales organisation (ISO), the PSP will be required to ensure that the relevant ISO complies with the applicable direction.
- The draft CBA at Annex 1.
- The options for format and content of summary boxes and trigger messages at Annex 2. In each case, please indicate which of the options you prefer and explain why.
- The draft directions in Annexes 3, 4 and 5.

**3.2** Please send your comments to us by **5pm** on **3 August 2022**.

# Annex 1
# Draft cost benefit analysis (CBA)

# Annex: Cost benefit analysis

## Introduction

**1.1** In this annex, we estimate the likely costs and benefits of our proposed remedies.

**1.2** Our analysis has been principally informed by information received from acquirers, payment facilitators, independent sales organisations (ISOs) and terminal leasing/financing companies in response to a formal information request sent in March 2022.

**1.3** This has been supplemented by other evidence, including the findings of our card-acquiring market review and evidence from comparable interventions in other sectors.

**1.4** The structure of this annex is:

- Approach to modelling costs and benefits
- The costs and effectiveness of each remedy individually
- The costs and benefits of our package of remedies
- Conclusions

## Approach to modelling costs and benefits

**1.5** We have focused our assessment on the likely net impact of the remedies on merchants (and ultimately, consumers). As set out below, this includes estimating the cost to providers of implementing the remedies versus the benefits that merchants will subsequently attain – for example, from lower prices/fees for card-acquiring services. Merchants may benefit in other ways, for instance from improved competition, that we have not tried to quantify.[1]

1 For instance, improved competition may result in longer-term improvements in innovation, efficiency and allocation of resources.

## Costs

**1.6** We consider that the relevant costs for the purpose of our assessment are predominantly those that will be incurred by providers because of the directions (and which may be passed on to merchants[2]). By contrast, indirect costs, such as needing to employ more sales representatives to deal with higher levels of customer switching and renegotiating[3] or due to distortions in competition[4], are expected to be relatively limited.

**1.7** We requested information from 20 providers. These included 12 out of the 14 directed acquirers and payment facilitators, five of the largest ISOs and three terminal rental/financing companies. Their responses informed our estimates of the total costs of our remedies, both individually and as a package.

**1.8** Some respondents noted they required more detail to provide accurate cost estimates. While we appreciate that some cost estimates may therefore only be indicative, we expect that the actual implementation costs of the remedy package are likely to be lower than estimated because:

- The remedies package set out in the directions is, in general, less burdensome than some respondents have assumed in their cost estimates, and we were not always able to control for this.
- We estimated the costs of implementation for each remedy individually, but it is likely there will be some cost synergies. For instance, adapting billing statements to include both the summary box and trigger message may be part of the same exercise.
- We understand that some of the directed providers supply processing services to other directed providers.[5] Therefore, while we allocated a firm-level cost to each of the directed providers, in some cases one firm may incur an implementation cost that at least partly covers the implementation costs of other providers too.

**1.9** Stakeholders and interested parties are invited to provide further information on costs in response to the Provisional Decision, and we will take those views into account in our final decision on our proposed remedies.

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2 We found some evidence that acquirers may have passed through higher scheme fees to merchants. See MR18/1.8, *Market review into card-acquiring services: Final report* (November 2021), page 85, paragraph 5.66.

3 For instance, providers gave estimates of how long it takes to sign up a merchant by telephone. These responses indicated that signing up simpler/smaller merchants can take around 20 minutes by telephone. One provider stated that merchants increasingly sign up online (and another stated that it did not sign up merchants by telephone at all). Some providers indicated that sign-up could take longer (for example, phone calls up to 60 minutes or face-to-face consultations of 60 to 90 minutes) but this appeared more likely to relate to larger merchants with more complex requirements.

4 For instance, see paragraph 1.27.

5 For instance, see https://www.aibms.com/businesses/corporate/

**1.10** To the extent that merchants receive lower prices (or equivalent improvements in service quality), this represents a transfer from providers to merchants. As noted in paragraph 1.5, we have focused on assessing the net benefits to merchants, and we have not treated lower revenue as a relevant cost to providers for the purposes of our assessment.[6]

**1.11** Some providers will face additional costs related to compliance reporting and providing information in relation to evaluation and monitoring. However, we do not expect these costs will be significant in relation to the other costs of implementation (or the benefits to merchants).

## Benefits

**1.12** Estimating the precise value of the benefits of our remedies is difficult because it relies on, among other things, the extent to which they will result in changes to merchant and provider behaviour.

**1.13** The greatest gains are likely to accrue to merchants that switch or negotiate better deals as a direct consequence of our remedies. We have therefore estimated the likely value to merchants of increasing rates of switching and renegotiation, and the extent to which these would need to increase to offset implementation costs.[7]

**1.14** Each intervention will individually have some beneficial impact, but the remedies are complementary – so their combined impact is likely to be greater than the sum of their parts. For instance, prompting a merchant to consider its supply options may have a greater benefit if that merchant is able to effectively compare alternative offers, and if the merchant wouldn't be dissuaded from switching by significant cancellation fees relating to its existing point-of-sale (POS) terminal contract. We focus on the benefits of the overall package. However, we also report evidence on the effectiveness of specific measures (for example, from other sectors where similar types of measures are in place) and the increases in switching and renegotiating that would be needed to offset the implementation costs of individual remedies.

## Benchmark

**1.15** Our baseline is that without our intervention merchant behaviour and prices would remain largely unchanged.[8]

**1.16** Our assessment of existing merchant behaviour is based on evidence presented in final report of our card-acquiring market review. This includes data from 2019 and earlier. However, more recent evidence demonstrates that the problems we identified then remain today. For instance:

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6 More searching, switching and renegotiating behaviour could also exert a cost on merchants themselves in terms of the time required to undertake these activities. However, we note that our remedies should also make it easier to search and switch, such that the overall impact on the overall time merchants spend undertaking these activities is not clear.

7 The remedies could also lead to a general increase in competitive pressure. We have therefore estimated the average price fall across all merchants that would likely offset implementation costs.

8 That is, aside from pre-existing trends that would impact behaviour or prices in the absence of the remedies. In the section discussing the 18-month POS terminal contract remedy, we specifically test whether there are any significant trends for merchants to increasingly use card readers in place of POS terminals (see paragraph 1.98).

- The UK Merchant Acceptance Council (H2 2021) merchant survey indicates that annual switching rates remain low.[9]
- BritainThinks SMEs Payment Research10, based on merchant research undertaken late in 2021, shows that newer SMEs actively shop around but there is a sense that other merchants do not know where to start to get a better deal. It found that some SMEs:
  - feel there is a lack of transparency, finding the different rates and types of fees confusing; some shop around but others do not know where to start, and some SMEs report being locked into relatively long contracts
  - are very positive about tools and support to help them understand or compare fees in relation to card-acquiring services

**1.17** Our evidence on the value of fees paid by merchants and numbers of merchant customers are drawn from both data collected for the card-acquiring market review and more recent data collected from providers during our remedies consultation.

## Net present value

**1.18** In calculating the net present value (NPV) of our costs and benefits, we have:

- Assumed an annual discount rate of 3.5%, in line with The Green Book.[11]
- Assessed the costs and benefits of our remedies over a five-year period, in line with the duration of the draft directions. This is a cautious approach, given that:
  1. the Green Book describes a time horizon of ten years as a suitable working assumption for many interventions
  2. most implementation costs are incurred at the beginning of the period while benefits to merchants will likely continue to accrue beyond the end of the period

## Waterbed effects

**1.19** We considered whether, in response to our remedies, providers might make changes (such as to their pricing structures) that could reduce the value of benefits. For instance, to reduce the gains from switching/renegotiating and/or to raise prices for merchants that do not switch or renegotiate. We note, however, that such 'waterbed' effects (where benefits of greater regulation or competition are, at least partially, offset by increases in prices elsewhere) are generally less likely to arise when competition is not working well, as we concluded in the final report of our card-acquiring market review. We have therefore not incorporated waterbed effects in our analysis. However, we do not consider

9 For instance, only 9% of the surveyed card-accepting merchants had switched 'offline' services in the last 12 months and 13% had switched 'online' services.

10 We commissioned BritainThinks to carry out research with SMEs in 2021, including with respect to their views on card payments and on interventions to help them get a good deal. This research included focus groups with 44 SMEs and an online survey of 1,038 micro, small and medium businesses with 0 to 249 employees across the UK.

11 The Green Book: Central Government Guidance on Appraisal and Evaluation, HM Treasury (2022).

that our conclusions would be significantly impacted even if moderate waterbed effects were assumed.[12]

# Summary box and online quotation tool

## The problem and rationale for intervention

**1.20** It can be difficult for merchants to compare different providers' offers. This is due to a lack of published information and because pricing structures and approaches to headline rates vary significantly. These features adversely impact merchants' willingness and ability to search, switch or renegotiate.

**1.21** We are requiring the directed acquirers and payment facilitators to provide their merchant customers with summary boxes containing tailored information on pricing, and potentially on service-levels and consumption data (see Annex 2 for the different options being considered). These providers, together with their sales channel partners (ISOs)[13], will also be required to host an online quotation tool on their respective websites.

**1.22** These measures will have a beneficial impact on merchant searching, switching and negotiating behaviour, for instance:

- The summary box will increase merchants' understanding and awareness of the fees they currently face (and of any changes/increases to those fees over time). As such, it is more likely they will search for a new deal if their current one is not optimal or changes.
- The summary box and online quotation tool will both help merchants to make comparisons of alternative offers more easily, so they can identify the best deals when searching among competing offers.

**1.23** They should consequently lead to the benefits set out in paragraphs 1.8 and 1.9 of the Provisional Decision.

## Costs of the summary box

**1.24** We asked 12 acquirers and payment facilitators whether they already provide bespoke summary boxes (or something similar) to their merchant customers. Nine indicated that they do not. Five acquirers noted that they supply more detailed pricing or service/transaction information.[14] Two payment facilitators stated that they already publish details of their pricing structures online, although we note that some of their larger customers may pay different fees. Overall, these responses confirm that all the directed providers will need to incur costs to implement this remedy.

12 For instance, the FCA has previously assumed that moderate waterbed effects could reduce the benefits of an intervention by around 25%. See FCA, Cash Savings Remedies (July 2015), page 62, paragraph 30.

13 We consider that it is necessary to include all partnering ISOs rather than, for instance, to specify a size threshold. This is to avoid distorting incentives for providers to partner with smaller ISOs or for ISOs themselves to remain below the size threshold.

14 For instance, at the application stage, in monthly statements or via online dashboards.

**1.25** The direction requires the directed providers to incorporate the summary box into existing billing information. To help understand how providers would do this, we requested information from 12 acquirers and payment facilitators on how they currently send billing statements to their merchant customers. There is a lot of variation between providers: almost all provide billing information via an online account to at least some of their customers and over half send letters to some customers. Relatively fewer providers send billing information by email or SMS. The responses also suggested that most merchants receive billing information via one medium, but at least two providers communicate it via two mediums (for example, email and online account).

**1.26** Providers gave their views on the major types of cost they would face implementing this type of remedy. Based on those responses, we consider the main categories of costs are:

- making changes to IT systems, so that merchant data can be extracted and processed into the form required for the summary box
- incorporating the summary box into existing billing information (for example, via online portals and monthly billing information)

**1.27** Additional cost categories were raised that we either consider irrelevant to the final remedy specification or unlikely to constitute significant costs, including:

- **Distorting competition by focusing attention on price**. We consider that the risks of this are limited because:
  3. Price is a key factor for merchants when shopping around and choosing provider[15]
  4. Some potential versions of the summary box would also include key non-price information on settlement times and the payment brands accepted (see Annex 2)
- **Communication costs when the summary box is rolled out:** The summary box will be clear, self-explanatory, and we do not anticipate that providers will need to commit significant resources to explaining it to their merchant customers. To the extent that more merchants switch or renegotiate, additional onboarding costs incurred by merchants are likely to be small relative to the gains from switching.[16]
- **Sending the summary box to merchants as a separate communication:** The direction only requires the summary box to be included within existing billing information (including online dashboards).
- **Capturing and storing data that the provider does not already have:** We anticipate that providers will be required to only include information they either hold internally or which would not be burdensome to obtain.[17]
- **Maintaining up-to-date and accurate fee information, particularly with regard to card scheme fees:** We anticipate, however, that the summary box information will be updated with the same frequency as other billing data that providers already supply.

15 See MR18/1.8, *Market review into card-acquiring services: Final report* (November 2021), page 58, paragraph 4.78.

16 For instance, see footnote 3 and paragraph 1.116.

17 For instance, the options in Annex 2 do not include information on the potential savings to the merchant from switching, which was identified as possible content for the summary box in the first remedies consultation.

- **Creating different summary boxes for each of blended pricing, IC+ pricing and IC++ pricing.** We believe that, for most providers, they will have a single IT system that deals with all types of pricing.

**1.28** We asked providers to estimate the magnitude of costs they would be likely to face if they implement a summary box remedy:

- Around half of the 12 providers that we requested information from stated that estimating the cost of implementation was difficult or not possible, for instance, being dependent on the exact specification of the summary box. Nevertheless, we received nine submissions containing information or views on costs. These were to varying levels of detail, with only two providers supplying cost-breakdowns into multiple types of activity. Some estimates were imprecise (for example, three providers described costs as 'millions'[18]) or incomplete (for example, two providers noted that there would be ongoing costs but did not estimate them[19]), so in some cases we needed to make assumptions over the likely costings.[20]
- In three cases, some cost information was provided that we considered would not apply[21] and those costs were not included (or only partially) in our calculations.

**1.29** Across providers, firm-level cost estimates varied widely. A summary of these is shown in Figure 1. Larger acquirers generally estimated significantly higher costs compared to smaller acquirers and payment facilitators.

**Figure 1: Ranges of costs indicated, per firm, split by type**

| | One-off costs | Annual recurring costs |
|---|---|---|
| **Large acquirers** | £200,000 to £2 million | Not material to £2 million |
| **Other acquirers** | Not material to £67,500 | Not material to £150,000 |
| **Payment facilitators** | Not material | £80,000 |

18 We used a figure of £2 million in these cases.

19 One acquirer estimated that its ongoing recurring costs would constitute 50% of the upfront costs. Therefore, we applied this same assumption to two acquirers that referred to ongoing costs but did not indicate their likely magnitude.

20 For instance, when a provider gave a range, we included the full range to derive the minimum and maximum metrics shown in Figure 1. However, we took the midpoint of the range in order to calculate the total one-off and recurring costs.

21 Such as the cost of sending the summary box in a separate communication by letter.

**1.30** To supplement the evidence from providers, we also reviewed precedent on summary box interventions in other sectors. Some cost estimates from precedent were lower. There were some examples where the costs of redesigning summary information were estimated to be around £20,000 per firm.[22] Although in another example, one-off costs were estimated at £1 million per provider.[23]

**1.31** Using the firm-level estimates we received in this case, for each type of provider shown in Figure 1, we identified the: minimum, median, mean, upper-quartile and maximum estimates for the one-off and recurring costs.[24]

**1.32** Using those figures and applying them to the 14 directed providers:

- The total one-off costs incurred by the 14 directed providers range from a minimum of £1 million to a maximum of £10.4 million. The average and median cost estimates are £7.1 million and £8.6 million respectively. The upper-quartile estimate is £10.3 million.
- Total annual recurring costs range from a minimum of £240,000 per annum to a maximum of £11.1 million per annum. The average and median cost estimates are £5.2 million and £4.6 million respectively. The upper-quartile estimate is £7 million.

**1.33** Over the five-year time horizon, applying an annual discount of 3.5%, the NPV of the costs to the 14 directed providers overall would be around £31 million. Based on the upper-quartile estimate for each type of provider, it would be £43 million.

## Costs of an online quotation tool

**1.34** We are requiring that the directed providers (and the ISOs that they contract with) provide an online quotation tool that will allow merchants to enter information about themselves and their requirements to receive price and potentially non-price information.

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22 For instance:

- The FCA estimated an average one-off cost of £20,800 for providers of packaged retail and insurance-based investment information to make changes to a three-page standardised key information document to, among other things, remove misleading performance scenario information. The costs included: familiarisation and legal, IT costs and change and governance. Source: FCA, PRIIPs – Proposed scope rules and amendments to Regulatory Technical Standards (July 2021).
- The FCA estimated an average cost of £22,000 for firms to redesign a summary box of key information on cash savings products, updating sales processes and providing training. Source: FCA, Cash Savings Remedies (July 2015), page 62, paragraph 35.
- The FSA (2010) assessed the likely costs of making changes to initial disclosure documentation in its Mortgage Market Review. Costs were £1,500 to £1,700 per firm to develop alternative disclosure documents, and compliance costs of £1.7 million across the sector, including making changes to KFI requirements. Source: FSA, Mortgage Market Review (November 2010), page 48, paragraph 43.

23 The FSA noted substantial one-off costs of £1 million per Life provider to redesign disclosure material and to programme systems. Source: FSA, FSA consultation paper - Informing consumers: product disclosure at the point of sale. FSA. (2003), page 93, paragraph 7.33.

24 For instance, the average firm-level one-off costs were estimated to be £1.4 million for the largest acquirers but around £30,000 for other acquirers and minimal for payment facilitators. Average recurring costs were estimated to be around £900,000 per annum for the largest acquirers and around £60,000 and £80,000 per annum respectively for other acquirers and payment facilitators.

1.35 Some information that providers gave us in relation to publishing generic information remains relevant to our assessment of costs of the online quotation tool, and is summarised below:

- We requested information from a range of acquirers, payment facilitators and ISOs on whether they already publish similar generic summary information on their website.
- Around half of the providers did not already publish similar generic information. Reasons given included the complexity of pricing and that, due to variation in fees charged across merchants, any published headline rate would not be representative of the rate subsequently charged to an individual merchant.
- Of those providers that stated that they did already publish generic summary information on their websites:
    1. Payment facilitators do publish some pricing information. One advised that it may be necessary to include more information than was indicated in the first remedies consultation, to give merchants a meaningful comparison.
    2. Some ISOs and acquirers show pricing for some of their packages – generally those stated to be suitable for smaller merchants (for example, turnover below a few hundred thousand pounds). One provider stated that, for larger merchants, tariffs are individually negotiated and therefore any generic pricing published would not reflect the tariffs actually paid. Another stated that simplified pricing is not suitable for the majority of its customers, for which consultation is a key part of the sales process. That same provider argued that the risk of generic summary information would be that significant costs would not be included, or they could be increased.
- Most providers agreed that a major cost of publishing generic summary information would relate to updating their website. Various other costs were identified as also being significant.[25] For example, some highlighted the indirect cost of having to change their pricing strategies. One provider stated this would be a material investment because, for larger merchants, fees currently depend on merchant characteristics, so significant amendment and simplification would be needed. Another stated that providers may need to increase their prices to account for the risks inherent in offering overly simplistic pricing.

1.36 We note that the online quotation tool addresses some of the issues identified by respondents regarding the generic summary information. In particular, the online quotation tool should allow prices to be tailored to merchant characteristics and requirements.

1.37 We did not specifically request information relating to the cost of implementing an online quotation tool, but two of the five providers' cost estimates relating to publishing generic information were relevant to it:

- One acquirer estimated an upfront cost of £45,000, with recurring costs of £25,000, to implement a solution allowing merchants to enter a wide range of parameters to generate tailored pricing based on their specific requirements.[26]

25 These included: costs to automate the display of pricing information, collating information on non-price metrics, increased advertising spend to ensure visibility, legal costs to check their contracts with acquirers.

26 They noted that these costs could double if the summary box needed to show 'all' relevant price/cost points.

- An ISO estimated £40,000 to develop a 'smart' generic summary box to capture critical data and an extra £10,000 to link it to the website.

**1.38** These estimates indicate that the costs of implementing the quotation tool will likely be significantly lower than for the summary box. This is consistent with its implementation being principally a development of a web-based analytics tool rather than a change to providers' underlying IT systems. Some providers' sales staff will already utilise similar tools in order to provide prospective merchant customers with quotes.

**1.39** Based on these figures, we estimate that the 14 directed providers and their largest ISOs[27] will each incur upfront costs of around £50,000 with £25,000 recurring annual costs. We have assumed that smaller ISOs will tend to have simpler pricing models and will each incur a one-off cost of around £5,000.[28] Based on these cost estimates, the total upfront costs incurred by providers will be around £2 million, with recurring annual fees of £725,000. The NPV of these costs over the five-year period is estimated to be around £5.4 million.

## Effectiveness of the summary box and online quotation tool

**1.40** We asked providers for evidence on the likely effectiveness of summary boxes at increasing merchant engagement. We did not specifically request evidence on the effectiveness of online quotation tools (though a majority gave reasons why generic summary information would be ineffective and potentially harmful).

- Several agreed that summary boxes could help merchants to compare providers, although others felt that only some merchants would benefit (for example, those already facing simple pricing). One emphasised the importance of including non-price factors. Only one provider referred to evidence in support of the remedy, which was to note that pricing communications generally lead to a significant increase in calls from its merchants.
- Other respondents indicated that the summary box could be ineffective or potentially harmful. One stated that providers already provide summary statements, and it is not possible to convey the complexities of pricing in a simplified or standardised summary box. It flagged the risk that important costs may not be included in the summary box and that providers may increase those fees. Another provider stated that its customers already receive transparent pricing, so the summary box would be of limited additional benefit. Another noted that very few merchants are onboarded via an online sales channel.

**1.41** In regard to some of the specific points raised by stakeholders:

- The card-acquiring market review found that the supply of card-acquiring services is not working well for merchants with annual card turnovers of up to £50 million. We

27 ISOs that the directed acquirers contract with that are estimated to have over 5,000 UK merchant customers. Data collected from 21 acquirers as part of the card-acquiring market review indicated that at least 10 ISOs were operating at this level, and on a cautious basis we have assumed that 15 ISOs now operate at this level.

28 We previously estimated that there were over 60 ISOs operating in the UK in 2018. We note that the Visa Global Register lists around 200 ISOs (those classified as HR-ISO and ISO-M) that operate in Europe and are based in the UK. We have taken the average of these two figures to assume that the directed acquirers partner with 130 ISOs.

consider it appropriate, therefore, to remedy features of concern for merchants with card turnovers up to this level.[29]

- Some options for the summary box include key non-price information.
- The summary box will likely include information on the most important transaction types and charges (and we propose to collect information from providers on the proportion of total merchant fees that the summary box metrics cover).
- We do not consider that the proportion of merchants onboarded via online sales channels necessarily indicates that merchants will not utilise online channels to search for alternative offers.

**1.42** There is relatively little evidence from other sectors relating to the effectiveness of summary box and online quotation tool remedies:

- The FCA and CMA[30] have previously found that the effectiveness of disclosure remedies in general is mixed, with some improving consumer engagement but others being ineffective. An example that did improve consumer engagement was the FCA's requirement for general insurers to include the previous year's premium on renewal letters, which led to 11-18% more customer switching (an increase of 3.2 percentage points).[31]
- Separately, the FSA has previously concluded that initial disclosure document and key facts illustrations for mortgages had not performed as expected, despite efforts for them to provide clear and concise information.[32]
- Ofgem (2019) assessed the effectiveness of a remedy to require suppliers to provide clear prices to microbusiness customers through a quotation tool. It found that it had improved the level of price information available, but only a very small proportion of customers used the tools.[33] Some aspects of the remedy were concluded to not be working as well as they could. For instance, the tariff information provided could be difficult to interpret, implementation was not consistent, and awareness of the quotation tools was low.[34]
- Some assessments of interventions to provide key information to customers have found that the costs of implementation would be offset by relatively small benefits.[35]

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29 For the 18-month POS terminal supply contract remedy, this applies only to merchants with annual card turnovers below £10 million because larger merchants are more likely to source card acceptance products independently.

30 FCA/CMA, Helping People Get a Better Deal: Learning lessons about consumer facing remedies (October 2018), page 19.

31 Among customers that had experienced a price rise of 5%. Source: FCA, Encouraging Consumers to act at renewal (December 2015), page 5.

32 FCA, Mortgage Market Review: Responsible Lending (July 2010).

33 For instance, less than 1% of some suppliers' microbusiness customers.

34 Ofgem, Evaluation of CMA Price Transparency Remedy – Final Report (2019), page 5.

35 For instance, the FCA found that the costs for providers of Retail and Insurance based Investment Products providers to prepare and provide investors with a standardised three-page key information document would be offset with an average saving of £8.50 per merchant. Source: FCA, PRIIPs – Proposed scope rules and amendments to Regulatory Technical Standards (July 2021), annex 1, paragraph 30.

**1.43** We believe that, in this case, the summary box and quotation tool together are likely to benefit a significant proportion of merchants. For instance:

- 49% and 41% of SMEs respectively reported that pricing transparency and consistency would be the most helpful measures for their business to get a good deal on card-acquiring services.[36]
- The final report of our card-acquiring market review reported that 16% of the merchants that had switched provider stated that access to more comparable pricing information, better quality or more accessible information would have made them feel more confident about deciding which provider to switch to.

**1.44** Our estimation of benefits focuses on the overall remedy package. Nevertheless, on the basis that the combined NPV of the implementation costs of the summary box and online quotation tool are around £37 million (or £49 million based on providers' higher cost estimates), the implementation costs of these two remedies are likely to be offset by the benefits to merchants commensurate with an increase in switching and renegotiating of around one percentage point (or around 1.25 percentage points in the case of providers' higher cost estimates).[37] An average price fall of less than 0.5% would also outweigh the costs of implementation.

# Trigger messages

## The problem and rationale for intervention

**1.45** Some merchants do not consider, or are not aware of, the potential benefits of switching or renegotiating with their current provider. This is partially because card-acquiring service contracts can roll on indefinitely without any prompt for them to consider their supply options.

**1.46** The longer a merchant has been on its current deal, the greater the likelihood that it would benefit from comparing different offers. For instance, as merchant circumstances change over time (for example, their annual card turnover changes) it becomes more likely that alternative deals exist that fit their current requirements better.

**1.47** We are requiring that the directed providers prompt their merchant customers to shop around and/or switch. The message will inform merchants that they are able to switch and that doing so could save them money.

**1.48** This remedy is intended to increase levels of merchant engagement, so that a higher proportion of merchants search providers and consequently either switch or renegotiate

36 Respondents to the BritainThinks SMEs Payment Research online questionnaire were asked 'In order to accept card payments, businesses use card-acquiring services. Research suggests that businesses who do not shop around for these card-acquiring services might not always get a good deal on the fees they pay. Which of the following would be most helpful for your business to get a good deal on its card-acquiring services?' Base: SMEs accepting card payments (n=461)

37 We do not consider that any potential costs associated with the additional cost categories listed in paragraph 1.27 would have a material impact on this assessment.

to get a better deal on their card-acquiring services. This could, in turn, incentivise providers to offer better deals to win and retain merchant customers.

## Costs of trigger messages

**1.49** We asked a range of acquirers and payment facilitators whether they already provide trigger messages (or something similar) to their merchant customers. None of the 12 respondents indicated that they were currently providing a trigger message in the manner described in the first remedies consultation. Some providers did, however, give examples of how they keep in contact with their customers on a regular basis, including quarterly reviews and conversations with relationship managers.

**1.50** We consider that the major cost category that providers would face implementing this remedy would include sending the trigger message in a specified medium/format to merchants.

**1.51** Additional cost categories that have been raised that we consider are unlikely to amount to significant costs include:

- **Extracting and including merchant-specific information from their IT systems**: The amount of merchant-specific information will be relatively limited (for example, potentially to the merchant tenure, the contract end date and/or key pricing components).
- **Unintended consequences:** One provider noted the risk that focusing on price factors would result in a 'race to the bottom' at the expense of non-price factors. We are consulting on the trigger message but note that it could advise merchants that they may wish to shop around to see if they can get a better deal, including with reference to service levels. Merchants could also be directed to their summary box or an online calculator, where both price and non-price information may be shown. We therefore disagree that the trigger message is likely to distort competition.
- **Administrative costs in managing the development and deployment of the trigger messages:** We believe these are likely to be modest given the nature of the message. One provider also flagged various processes that the direction does not mandate, such as confirming the merchant's preferred contact method and identifying specific individuals within the merchant organisation to receive the information.
- **Customer service costs:** One provider stated it may need to employ additional customer service representatives to engage with merchants after the triggers are sent. The trigger message will be clear and self explanatory, so we consider that additional customer services costs are instead likely to relate to greater searching, switching and renegotiating activity (see paragraph 1.6).

**1.52** Some providers noted that further information on the format and content of the trigger message was required to provide an accurate cost estimate. Nevertheless, six providers submitted cost estimates based on their assumptions over the specification of the trigger message.

**1.53** Some estimates were imprecise (for example, two providers described costs either as 'material'[38] or 'not material' and three gave costs that we did not consider relevant,

38 Which we assumed was £100,000.

such as those associated with additional printing and mailing). In some cases, we therefore needed to make assumptions over likely costings or to exclude some costs from our calculations.

**1.54** The firm-level estimates varied very widely, with larger providers typically providing higher cost figures than smaller providers.

**Figure 2: Ranges of costs indicated, per firm, split by type**

| | One-off costs | Recurring costs |
|---|---|---|
| **Large acquirers** | £195,000 to £1.2 million | Not material to £150,000 |
| **Other acquirers** | Not material to £450,000 | Not material to £67,500 |
| **Payment facilitators** | Not material | £80,000 |

**1.55** We reviewed a range of precedent on trigger interventions in other sectors. Some examples of implementation costs were consistent with upfront firm-level direct costs of around £350,000 to £400,000 to, for instance, implement system changes.[39]

**1.56** Based on our analysis of firm-level cost estimates, for each type of provider, we identified the: minimum, median, mean, upper-quartile and maximum estimates for the one-off and recurring costs.[40] Using those figures and applying them to the 14 directed providers:

- The total one-off costs incurred by the 14 directed providers range from a minimum of £975,000 to a maximum of £8.7 million. The average and median cost estimates are £3.8 million and £1.7 million respectively. The upper-quartile estimate is £5.2 million.
- Total industry annual recurring costs range from a minimum of £240,000 to a maximum of £1.4 million. The average and median estimates of annual recurring costs are £769,000 and £740,000 respectively. The upper-quartile estimate is £1.1 million.

**1.57** Over the five-year time horizon, applying an annual discount of 3.5%, the NPV of the directed providers' total implementation costs would be £5.1 million and £7.4 million based on the median and average cost estimates for each type of provider. Based on the upper-quartile estimate for each type of provider, the NPV of implementation costs would be around £10 million.

39 For instance:

- The cost for annuity providers to update their systems to deliver amended disclosures that include information prompts would be £397,000 per medium-sized firm. Source: FCA CP16/37, *Implementing information prompts in the annuity market* (November 2016).
- The FCA estimated that general insurers would incur a £100,000 cost to include additional information prompts (for example, last year's premium) for each system that required amending, which in that sector indicated that an average firm would incur costs of around £350,000. It additionally identified reductions in provider profits, call-handling costs and shopping around costs. Source: FCA CP15/41, *Increasing transparency and engagement at renewal in general insurance markets* (December 2015).

40 For instance, the average firm-level one-off costs were estimated to be around £530,000 for the largest acquirers, £190,000 for other acquirers and minimal for payment facilitators. Average recurring costs were estimated to be around £80,000 for the largest acquirers, £20,000 for other acquirers and £80,000 for payment facilitators.

## Effectiveness of trigger messages

**1.58** We asked providers to supply evidence on the likely effectiveness of trigger messages at increasing merchant engagement. Some providers gave evidence based on their own experiences of sending triggers to their customers. These demonstrate that merchant responses to messaging in the card-acquiring sector can vary widely.[41] Overall, however, they indicate that a material proportion of merchants that see a prompt would take some action.

**1.59** There are examples of trigger message remedies in other sectors having significant impacts on consumer behaviour. For instance:

- Ofcom has found that end-of-contract notifications sent to broadband customers led to increases of 10 percentage points (or more) in the number of customers taking out a new deal, by re-contracting with their existing providers.[42]
- A FCA and CMA report on consumer-facing remedies noted that a collective switching trial in the retail energy market resulted in an almost eightfold increase in switching among customers contacted, from an average of 4% to an average of 27%.[43]
- The FCA found that an information prompt in the annuity market increased switching by 18 percentage points, from 7% to 25%. It also increased shopping around from 13% to 40%.[44]

**1.60** We also note that, in the recent BritainThinks SMEs Payment Research, 31% of SMEs stated that a requirement for providers to communicate when a contract is coming to an end or up for renewal would be most helpful to getting a good deal on card-acquiring services.

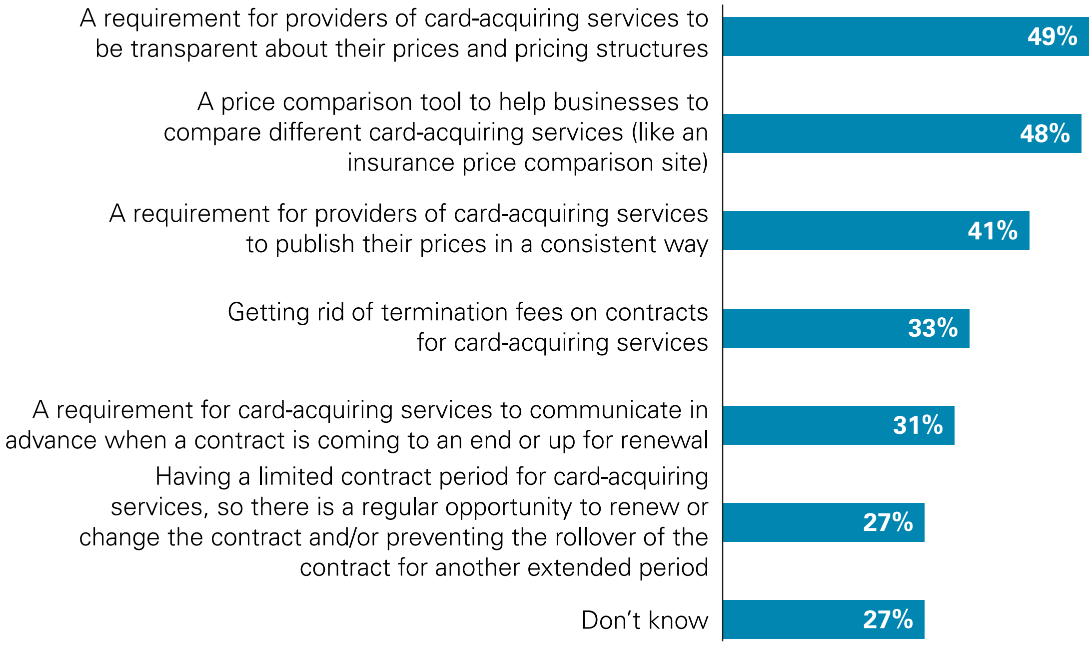
41 Five acquirers provided evidence based on their experiences of contacting their merchant customers across various different scenarios. These scenarios included, for instance, contacting merchant customers to discuss their account, sending emails containing their monthly statements and other mail campaigns. They provided information on the proportion of merchants that took a specific action in response to this contact (such as opening an email, participating in a phone call, signing a new contract with the provider or switching away). The proportion of merchants that took such actions varied widely, from 2% to 70%, but four out of five providers gave examples where over 30% of merchant customers had taken some action in response to the actions of the provider.

42 See Ofcom, End-Of-Contract Notifications: An ex-post evaluation of the impact of the introduction of ECNs on re-contracting and pricing for broadband services (6 May 2022), page 13, Table 1.

43 See FCA and CMA, *Helping people get a better deal: Learning lessons about consumer facing remedies* (October 2018), page 19, box 6: Remedies to trigger consumer engagement.

44 See FCA, Implementing information prompts in the annuity market (CP16/37) (November 2016), Annex 2 Cost Benefit Analysis, paragraph 18.

**Figure 3: % of card-accepting SMEs choosing each of the following options as most helpful to getting a good deal on card-acquiring services**




Question: In order to accept card payments, businesses use card-acquiring services. Research suggests that businesses who do not shop around for these card-acquiring services might not always get a good deal on the fees they pay. Which of the following would be most helpful for your business to get a good deal on its card-acquiring services? Base: SMEs accepting card payments (n=461)

Source: BritainThinks SMEs Payment Research, December 2021

**1.61** Overall, however, we acknowledge that evidence from other sectors suggests that even well-designed trigger messages may potentially only increase switching by relatively small amounts:

- As noted in paragraph 1.42, including the previous year's general insurance premium on renewal letters resulted in an increase of 3.2 percentage points in switching or negotiation among customers that had experienced a 5% price increase.
- Ofgem found that after sending letters to 10,000 customers directing them to a digital system that allowed them to find an alternative tariff, switching increased from 3% to 5%.[45]
- A wide-ranging review of 'nudges' in retail financial markets found that they increase search and switching behaviour by two to three percentage points on average.[46]

45 Ofgem, Insights from Ofgem's consumer engagement trials (September 2019), page 33, paragraph 3.28.

46 Source: Zita Vassas, '*Do nudges increase consumer search and switching? Evidence from financial markets*' (April 2021)

**1.62** Our estimation of benefits focuses on the overall remedy package. Nevertheless, on the basis that the NPV cost of the trigger remedy is £5.1 million and £7.4 million based on the median and average provider cost estimates (or £11.6 million based on upper quartile estimates), the implementation costs are likely to be offset by the benefits to merchants commensurate with an increase in switching and renegotiating of less than 0.2 percentage points (or around 0.25 percentage points based on providers' higher cost estimates). An average price fall of around 0.1% would also outweigh the costs of implementation.

# 18-month POS terminal supply contracts

## The problem and rationale for intervention

**1.63** Merchants may find that if they attempt to switch provider of card-acquiring services, they need to cancel their current POS terminal contract, which can result in significant termination charges. These termination charges may prevent or discourage merchants from switching provider of card-acquiring services, even if they could get a better deal.

**1.64** This situation can arise because POS terminal contracts can have longer initial/renewal terms than card-acquirer contracts and/or they may renew automatically for successive fixed terms. Early termination fees for these contracts can include, for instance, all outstanding payments due up to the end of the initial/renewal term.

**1.65** To reduce the barrier that POS terminal contracts pose to switching provider of card-acquiring services, we are requiring that the directed providers limit the initial period of POS terminal contracts faced by their merchant customers to 18 months. After this time, those contracts should roll over in no more than monthly increments. This will reduce early termination charges faced by merchants that are associated with outstanding payments due to the end of the initial/renewal term. This will apply to all new contracts and contract renewals for merchants with card turnovers of up to £10 million.

**1.66** Some merchant customers obtain their POS terminals from a third party, such as an ISO or a dedicated POS terminal supplier.[47] So that the remedy is effective, the directed providers will therefore be required to ensure that POS terminal lease or rental providers who supply their merchant customers comply with the remedy.

**1.67** This remedy will ensure that POS terminal contracts represent less of a barrier to merchants switching their provider of card-acquiring services. This should increase levels of merchant engagement and allow them to switch more easily. Providers may, in turn, be incentivised to compete harder to retain merchants by offering better deals.

47 For instance, out of 13 providers that supplied information on the proportion of their merchant customers that get their POS terminals via different means, five providers indicated that they refer a higher proportion of their merchant customers to third-party POS terminal suppliers than they supply directly.

## Costs of 18-month POS terminal contracts

**1.68** As noted, this remedy will only apply to new POS terminal contracts or renewals, so existing POS terminal contracts will not be impacted immediately. We therefore do not consider that this remedy is likely to result in providers in aggregate incurring significant one-off costs, for instance, in relation to their back book of customers. Instead, we have focused on understanding:

- the extent to which providers' business models in aggregate currently rely on long or auto-renewing POS terminal contracts
- whether and to what extent providers that rely on them can mitigate any adverse impact to their business model
- the impact on merchants if any providers are adversely impacted

### Impact on provider business models

**1.69** The extent to which provider business models are impacted by the remedy will likely relate to the extent to which they currently supply long and/or auto-renewing POS terminal contracts. We requested information from a range of acquirers, ISOs and terminal leasing/financing companies on the characteristics of the POS terminal contracts of their merchant customers.

**1.70** The data provided was sometimes incomplete or unclear. For instance, some acquirers stated that they could only provide data on POS terminal contracts that they supply directly, not those provided by a third party. The following estimates are therefore subject to a relatively high degree of uncertainty. However, in relation to contracts with initial/renewal terms longer than 18 months:

- All of the nine acquirers that provided data indicated that they may have some contracts with initial terms that exceed 18 months, although the propensity varied widely between acquirers, from around 5% to 97%.
- All of the four ISOs that provided data indicated that they had some terminal contracts with initial contract periods over 18 months long. The proportion of contracts in this category varied widely between ISOs, from less than 5% to 85%.
- Leasing/financing companies reported that a very high proportion (that is, for each, over 90%) of their POS terminal contracts were over 18 months.

**1.71** In relation to contracts with initial periods longer than three years (which we use as an example of a relatively long contract term):

- Six out of the eight acquirers that responded indicated that POS terminal contracts of longer than three years were an exception rather than the rule. One acquirer indicated that only larger merchants may have contracts on such terms. Conversely, another reported that over two-thirds of its POS terminals had contracts with initial terms longer than three years.
- All of the four ISOs that provided data indicated that they had some terminal contracts with initial contract periods over three years long. The proportion of contracts in this category varied widely between ISOs, from 1% to 76%.

On average, we estimate that around a quarter of the POS terminals had contracts longer than three years.

- Leasing/financing companies each reported that a high proportion (that is, between 63% and 78%) of their POS terminal contracts were over three years.

**1.72** In relation to POS terminal contracts that auto-renew for successive fixed contracts:

- Relatively very few acquirers that responded (two out of eight) indicated that their merchants had POS terminal contracts with auto-renewing contracts.[48] Of those two, one indicated that relatively few of its merchant customers had auto-renewing contracts while the other stated that all of its POS terminals were supplied on auto-renewing contracts.
- Responses from ISOs were mixed on whether any of their merchant customers had auto-renewing POS terminal contracts. Two out of four ISOs did report that their merchants have auto-renewing contracts. The proportion of their POS terminals to which they applied was 17% and 100% respectively.
- Leasing/financing companies reported that they did not supply POS terminal contracts that auto-renew for successive fixed periods.

**1.73** In summary:

- Most providers supply at least some contracts with initial terms longer than 18 months, although the proportion varies widely between individual acquirers and ISOs. They may be relatively more common among merchants signed up by ISOs, especially where the terminal is supplied (or funded) by a leasing/financing company.
- Contracts with initial terms over three years are less common. For most acquirers and ISOs, supply contracts with such terms account for a minority of their merchants' POS terminal contracts, although there are a small number of exceptions.
- The large majority of acquirers do not appear to supply POS terminals with auto-renewing contracts. A small number do, including one that only supplies auto-renewing contracts. Responses from ISOs were mixed, although for only one out of the four ISOs that provided information did auto-renewing contracts appear to make up a very significant proportion of the POS terminals they supply.

**1.74** Although most providers supply some contracts with initial terms over 18 months, we consider it more meaningful to assess the impact on business models according to how many contracts providers have with initial terms that are significantly longer. Using three years as an example, we note that almost all of the acquirers and ISOs that responded to our information request reported supplying no or only few POS terminals on such terms. Further, most acquirers and ISOs indicated that they either do not supply POS terminal contracts with auto-renewing contracts or that they constitute a small proportion of all POS terminals supplied. We consider this is consistent with the impact of the remedy on provider business models in aggregate being limited.

48 In addition to these two, three acquirers referred to one-month notice periods or successive terms following the initial term, and one acquirer that referred to notice periods of between one and three months.

**1.75** There are, however, at least a small number of providers for which POS terminal contracts with initial terms over three years and/or that auto renew constitute a large proportion of the POS terminals they supply. As an example of the potential impact of the remedy on these providers, we considered the potential impact on a provider that currently covers its costs of sale over a three-year period but would instead have to cover them over a period of 18 months instead.

**1.76** One stakeholder told us that the overall cost of sale via an ISO could be around £800, which includes the cost of the terminal and the salesperson's commission. Recovering this over an 18-month period rather than a three-year period would therefore increase monthly payments by around £22. In theory, this could disadvantage these providers relative to other providers. [49]

**1.77** We considered whether the costs of sale that needed to be recouped over the initial contract term may be less than this. This could be the case if the POS terminal could be refurbished and reissued if a merchant cancelled its contract at the end of the 18-month initial period. We found that refurbishments are relatively common practice in the industry:

- Among acquirers, between 26% and 70% of their merchant customers' terminals had been used by another merchant previously. This was lower for ISOs, ranging between zero and 30%. For terminal suppliers/finance companies it was zero. Opinions varied between the ISOs on the prevalence of refurbishing terminals. Some considered it was 'routine' practice within the industry for terminals to be refurbished while others were unaware of suppliers that supply second-hand terminals.
- We also asked acquirers/ISOs/terminal suppliers what happened to POS terminals where their merchant customers had terminated a contract in 2021. The proportion of terminals judged to still be in good working order ranged from 32% to 99%. Of those still in good working order, the most common action was to collect and refurbish the terminal.
- Although technically possible in certain circumstances, many ISOs/terminal suppliers suggested it was not possible to reissue a terminal to work with a different acquirer. However, given that most ISOs appear to only work with a small number of acquirers, this does not appear to be a significant barrier to ISOs reissuing terminals to their new customers (that is, that use the same acquirer as an ISO's previous customer).

**1.78** Overall, therefore, providers appear able to refurbish and reuse POS terminals. This could reduce the costs of sale that need to be recovered over the initial contract period, given that the cost of refurbishing and reconfiguring a terminal was estimated to be around £80-100 on average versus the wholesale of cost terminals being around £290.[50,51] Commission payments to salespeople may also be expected to decline if the average

49 We note that preventing contracts from auto-renewing for fixed periods could have a similar impact, to the extent that it would lower the early cancellation charges faced by merchants and results in them changing provider more frequently.

50 The wholesale cost of providers' most popular terminal models were estimated to range from £170 to £505 per terminal, with an average of roughly £290.

51 Depreciation costs could be relatively limited given that providers estimated that the lifespan of a POS terminal is typically around three to eight years.

tenure of a merchant with a card-acquirer, and therefore their expected value to the card-acquirer, fell.

**1.79** Notwithstanding this, we considered to what extent providers currently supplying POS terminal contracts with long initial periods (and/or that auto renew) may be able to mitigate any adverse impacts on their business arising from the remedy.

### Whether and to what extent providers can mitigate any impact

**1.80** Most acquirers and ISOs that responded to our information request do not appear to supply a significant proportion of POS terminals on contracts with initial terms longer than three years (or that auto renew).[52] This suggests that other business models, based on shorter POS terminal contract lengths (or contracts that do not auto renew), exist and represent a credible alternative for those providers that do currently supply a significant proportion of POS terminals on such terms.

**1.81** ISOs provided data indicating that they earn a substantial proportion (over half) of their overall revenues from commissions or referral payments related to the supply of card-acquiring services. To the extent that shorter POS terminal contracts result in merchants switching card-acquirer more frequently, ISO revenues earned from signing up individual merchants (that is, commissions or referral payments) may fall as the expected value of those merchants declines. This impact may, however, be at least partially offset by the greater opportunities for ISOs to sign-up more merchant customers looking to switch. Furthermore, the remedy will only apply to new merchant contracts and renewals, so most providers will be able to adapt their business models over the course of several years.

**1.82** In the next section, we consider the potential impact on merchants if any providers currently reliant on relatively long or auto-renewing POS terminal contracts were adversely impacted or even exited the sector as a result of the remedy.

### Impact on merchants

**1.83** We considered whether providers might offer merchants worse deals if they could not offer POS terminal contracts longer than 18-months. Most acquirers and ISOs indicated that card-acquiring fees are not currently impacted by the length of the POS terminal contract. One noted that there is an impact, but it is 'minimal'. Two noted that the length of the POS terminal rental can, however, impact the cost of the POS terminal rental (for example, spreading the cost of distribution, hardware and set-up costs).

**1.84** Even if some providers were unable to mitigate the impact of the remedy and were adversely impacted or exited the sector, based on the evidence we have seen, merchants would likely retain a choice of several providers:

- The number of acquirers and ISOs that currently supply a significant proportion of long or auto-renewing POS terminal contracts appears relatively small.
- In the card-acquiring market review, it was estimated that there were over 100 acquirers and over 60 ISOs in 2018.

52 Although the prevalence of POS terminal contracts longer than 18 months is significantly greater, as previously explained, we consider that it is more meaningful to assess the impact on business models according to how many contracts providers have with initial terms that are significantly longer.

**1.85** Some merchants may have a preference for longer POS terminal contracts. This could be, for instance, because they want the stability of being able to lock-in current price levels for longer. However, as explained in paragraph 1.92, spend on POS terminals is typically lower than for card-acquiring services. The relative benefits associated with a longer POS terminal may therefore be likely to be outweighed by the benefits of being more easily and regularly able to switch card-acquiring service provider.

**1.86** We therefore consider that the risk of adverse effects on competition or to merchants is low.

**Summary on the costs of implementation**

**1.87** In summary, we do not consider that providers in aggregate will incur significant costs implementing this remedy:

- Many do not supply the types of POS terminal contracts that would be significantly impacted (or they constitute only a small proportion of those they do supply).
- There is evidence that providers can collect, refurbish and reissue POS terminals, so it may not be necessary for them to recoup the cost of a POS terminal over an initial contract period. Any impact on ISO referral commission revenues from more regular merchant switching may also be partially offset by the greater numbers of merchants looking to switch provider.

**1.88** The remedy will apply to new merchant contracts and renewals, so providers will have opportunity to adapt their business models over the course of several years.

**1.89** The risk of adverse effects on merchants also appears low given that:

- the remedy seems unlikely to have a significantly adverse impact on card-acquiring fees
- the proportion of providers that would potentially be impacted appears low

## Benefits of 18-month POS terminal contacts

**1.90** To assess the benefits of this remedy, we considered:

- the proportion of merchants that are on relatively long POS terminal contracts or POS terminal contracts that auto renew
- the extent to which POS terminal contract cancellation charges are likely to currently dissuade merchants from switching card acquirer
- whether there is evidence that merchants can use card readers[53] instead of POS terminals

53 A card reader is a device which, in combination with a mobile phone or other computer, acts as a POS terminal to process card payments.

## The proportion of merchants that are on long and/or auto-renewing POS terminal contracts

**1.91** As noted earlier, we have identified examples of providers for which a significant proportion of their POS terminal contracts have initial terms over 18 months or auto renew for successive terms. We therefore consider that a material proportion of merchants will benefit from the remedy.

## The extent to which POS terminal contract cancellation charges dissuade switching

**1.92** Using data from some of the largest acquirers collected during our card-acquiring market review, we attempted to calculate the proportion of merchant spend on POS terminals relative to card-acquiring services. This indicated that the relative importance of merchant spend on POS terminals tends, on average, to be significantly higher for smaller merchants and to diminish in importance for merchants with higher annual card turnover.[54] This is consistent with POS terminal cancellation charges potentially being more likely to deter smaller merchants from switching card-acquirer than larger merchants (that is, for which POS terminal costs are relatively less important).

**1.93** However, to understand the extent to which early cancellation fees may dissuade merchants from switching card acquirer, we assessed the relative size of the gains from switching card-acquirer (for example, see paragraphs 1.116 and 1.117) versus potential POS terminal cancellation fees.

**1.94** Information provided by acquirers, ISOs and terminal leasing/financing companies in response to our formal information request sent in March 2022 indicates that most, but not all, providers charge early cancellation fees during the POS terminal contract initial period. Around half stated that cancellation fees cover the remaining payment period (with some offering a small discount on this). The other half charge both for remaining payments but also additional fees (for example, to cover couriers, refurbishment/restocking, liquidated damages). These additional charges varied, but included one-off fees of between £40 and £200 and some charged additional fees for each remaining month on the contract of £30 to £40.

**1.95** The majority of providers do not charge cancellation fees outside the initial period besides courier costs, but a small number do. One provider charges a restocking fee and three that have auto-renewing contracts apply the same fees in the renewal period as they do in the initial period.

**1.96** We compared estimates of the annual gains from switching card-acquirer to the potential cancellation fees associated with POS terminal contracts. Our analysis indicates that cancellation fees could substantially reduce the gains from switching card-acquirer, particularly if there are multiple years left on the POS terminal contract.

54 We have some concerns about the data that underpinned this analysis but note that it indicated that, on average, as much as one third to half of total spend for merchants with annual card turnovers of below £15,000 may relate to the POS terminal on average. This is compared to potentially less than 10% of total spend for merchants with annual card turnovers of over £380,000.

The remedy will therefore limit the scope for merchants to face large early cancellation fees related to their POS terminal contract if they switch card-acquiring service provider.[55]

**1.97** We note that some providers reimburse at least some merchants for cancellation fees. For instance, three out of five ISOs (and at least one acquirer) that responded to our information request reimbursed some of their new customers in 2021. The proportion of new customers that they reimbursed cancellation fees ranged from less than 5% to around 20%. The average reimbursement was around £600. Such actions could act to reduce barriers to switching caused by cancellation fees. However, it is not clear what proportion of merchants that face cancellation fees are reimbursed. More importantly, we consider that the prospect of cancellation fees could dissuade merchants from searching for a new supplier in the first place.

## Can merchants use card readers instead?

**1.98** We considered to what extent merchants may be able to avoid the early cancellation charges associated with POS terminal contracts by substituting POS terminals for card readers (which a merchant often buys upfront and owns). There is little evidence, however, that POS terminals can be substituted with card readers, or that this is a growing trend in the sector:

- ISOs do not provide card readers and most acquirers reported that 5% or less of their merchant customers use them.
- Providers told us that card readers can be appropriate for small/low volume merchants and sole traders (or as a backup to a POS terminal). However, a variety of reasons were given for why card readers were not a suitable substitute for POS terminals for many types of merchant.
- There was no evidence or assertion of any trend for merchants to switch away from POS terminals towards card readers.

## Summary of benefits

**1.99** POS terminal contract early cancellation charges can be significant relative to the gains from switching card-acquiring service provider (and merchants do not typically have the option to use a card reader instead). The remedy will limit early cancellation fees associated with outstanding payments on POS terminal contracts.[56] This will increase the net gains to switching card-acquirer for the material proportion of merchants that could otherwise face large early cancellation fees covering many months of POS terminal fee repayments.

55 For example, if a merchant with annual card turnover of around £70,000 paid £750 in MSC to their acquirer per annum, we later assume (see paragraph 1.116) that it could save 10% or £75 per annum on its MSC by switching acquirer. If the same merchant paid around £20 per month in fees for its POS terminal, early cancellation charges related to outstanding payments would be £240 for each year remaining on the POS terminal contract.

56 These can be all, or a substantial proportion, of the early cancellation charges that a merchant faces.

**1.100** We also note that many merchants surveyed as part of the BritainThinks SMEs Payment Research indicated that they are in favour of remedies that limit contract length and termination fees:

- 33% of SMEs stated that getting rid of termination fees on contracts for card-acquiring services would be most helpful in getting a good deal.
- 27% stated that having a limited contract period for card-acquiring services would be most helpful in getting a good deal.[57]

# The costs and benefits of our package of remedies

## Total costs of implementation

**1.101** As set out in the preceding sections, the NPV of the costs of implementing our remedies are:

- **Summary box and online quotation tool:** Around £37 million (or £49 million based on providers' upper-quartile cost estimates)
- **Trigger messages:** £5.1 million or £7.4 million based on median and average cost estimates (or £10 million based on providers' upper-quartile cost estimates)
- **18-month POS terminal supply contracts:** We do not consider that providers in aggregate will incur significant costs implementing this remedy

**1.102** The overall NPV sum of implementation costs are £40.8 million and £44.3 million, based on the median and average provider cost estimates (or £58.5 million based on upper-quartile estimates). As already explained in paragraph 1.8, we consider this may overestimate the total costs of implementing the package, but stakeholders and interested parties are invited to provide further information on costs that we will take into account in our final decision on our proposed remedies.

## Benefits of increasing merchant engagement

**1.103** Estimating the value of the benefits of our remedies precisely is difficult because it relies on, among other things, the extent to which they will result in changes to merchant and provider behaviour.

57 Respondents to the BritainThinks SMEs Payment Research online questionnaire were asked 'In order to accept card payments, businesses use card-acquiring services. Research suggests that businesses who do not shop around for these card-acquiring services might not always get a good deal on the fees they pay. Which of the following would be most helpful for your business to get a good deal on its card-acquiring services?' Base: SMEs accepting card payments (n=461).

**1.104** One illustration that the potential gains from increasing merchant engagement are likely to be significant is the value of cost savings from the IFR caps that were not passed through to merchants. In the final report of our card-acquiring market review, it was estimated that around £600 million of IFR cost savings were passed through to merchants on IC++ pricing in 2018. Merchants on IC++ pricing are typically the largest merchants, but even if the value of cost savings that were not passed through to other merchants is smaller, it still appears likely to be at least tens of millions of pounds per annum.

**1.105** Benefits may accrue to different groups of merchants[58], but the greatest gains are likely to be to those that switch or negotiate better deals as a direct consequence of our remedies. We have therefore estimated the likely value to merchants of increasing rates of switching and renegotiation.

**1.106** Our remedies may have further benefits and, to illustrate the potential value of a small general improvement in competition, we estimated the value of a small average price reduction.

### Gains from switching

**1.107** We have reviewed the following evidence to derive estimates for the likely percentage gains available to merchants that switch to a better deal:

- econometric analysis undertaken as part of the card-acquiring market review
- mystery shopping exercises submitted by providers
- PSR desk research of provider/intermediary websites and customer reviews

**1.108** We then use our estimate of the likely percentage gain from switching, together with data on merchant customer numbers, card turnover and the fees that merchants pay for card-acquiring services, to calculate the potential value of benefits arising from an increase in merchant switching.

*Econometric analysis*

**1.109** In the card-acquiring market review, we found that merchant customers of the largest five acquirers, with annual card turnover below £10 million, paid a higher merchant service charge (MSC) if they had been with their acquirer for a longer period. The difference in MSC paid ranged from 0.02% to 0.24% of annual card turnover.[59]

58 Including:

- merchants that switch or renegotiate as a consequence of the remedies package
- merchants that switch or renegotiate to a better deal than they would otherwise have absent the remedy package (for example, because they can find better deals or providers offer improved offers)
- merchants that do not switch or renegotiate, but are offered a better deal by their current provider

59 See MR18/1.8, Market review into card-acquiring services: Final report (November 2021), Annex 2, Table 12.

**1.110** We accepted that this analysis could not precisely estimate the gains from switching.[60] Nevertheless, we consider that it provides one estimate of the magnitude of gains that may be available to merchants that switch provider. Further PSR analysis of these results indicates that the typical merchant[61] with annual card turnover below £10 million could save between 12% and 18% of their MSC by switching provider.[62]

**1.111** There are several reasons why these estimates may underestimate the potential savings available from switching:

- Difficulties comparing deals may have meant that some customers will not have switched to the best deal available. As a result of our remedies, merchants may find it easier to identify and switch to better deals, potentially making greater savings.
- The analysis was based on data obtained from the five largest acquirers. In some cases, better deals could be available from other acquirers and payment facilitators.
- The analysis does not include potential savings from associated purchases such as POS terminal rental.

*Mystery shopping evidence*

**1.112** Two providers submitted the results from mystery shopping exercises. One of these exercises:

- Illustrated the typical monthly costs for a merchant with annual card turnover of £50,000, based on a quote from a 'traditional competitor' (around £50) versus the average price from Square, Sumup and Zettle (£72), a difference of around 44%.[63]
- Stated that all providers had been willing to negotiate when presented with better competitor offers. There were examples of two directed providers reducing their initial headline rates by 30% and 32% respectively for a merchant with relatively low annual card turnover.
- Indicated that 'smaller competitors' have fee rates that are 0.2% and 0.3% lower than [redacted] and [redacted] especially for merchants with lower annual card turnovers.

60 This was because (i) it is also possible that merchants that had already switched were those with most to gain from switching; (ii) the analysis did not differentiate between those merchants that were new to card payments and those that had switched provider; and (iii) the analysis did not take account of differences in service quality.

61 Depending on their annual card turnover and how long they have been with their current provider.

62 This is based on (i) the age indicator coefficients in Table 12 in Annex 2 of the final report of our card-acquiring market review; and (ii) PSR analysis of data obtained in the market review regarding the average and median annual card turnover and MSC paid by merchant customers of the largest five acquirers in 2018 for each of the following annual card turnover groupings: £0 to £15,000, £15,000 to £180,000, £180,000 to £380,000, £380,000 to £1 million, £1 million to £10 million. The econometric analysis for merchants with annual card turnovers of between £10 million and £50 million was not considered robust, so we cannot discount, based on that analysis, that the typical savings for these merchants may be small. The market review merchant survey showed that the median merchant had been with their main provider for two to five years, so we used the average indicated gains from switching for merchants that had been with their acquirer for two to three years, and over three years.

63 The difference was much greater for a merchant with annual card turnover of £150,000, but we consider this is a less relevant comparison as relatively fewer merchants with that level of annual card turnover would be expected to purchase from a payment facilitator.

**1.113** Another provider submitted the results of a mystery shopping exercise in which seven quotes were collected for a merchant with annual card turnover of £480,000.[64] The pricing data suggested that merchants may be able to save between 1% and 48% by choosing the cheapest quote over a more expensive quote. The average and median savings were 14% and 13% respectively (or around 8% if the most expensive quote, which was nearly double the others, was removed).

**1.114** We consider that these documents provide evidence of substantial potential savings available to merchant customers that switch or renegotiate with their current provider.

*Internet research*

**1.115** We reviewed a range of provider/intermediary websites and found claims or examples of savings available to merchants that switched provider ranging from 40% to 50%. Some online customer reviews of acquirers and payment facilitators that we saw similarly claimed savings of between 30% and 60%. We acknowledge that these are likely to reflect the potential upper bounds of possible gains from switching as opposed to the average or typical gains.

### Summary of the gains from switching

**1.116** Based on the evidence we have seen, we have made the following conservative estimates of the likely percentage gains available to merchants that switch to a better deal:

- 10% of MSC, for merchants with annual card turnovers up to £10 million.
- 5% of MSC, for merchants with annual card turnovers between £10 million and £50 million.

**1.117** Using these assumptions, with data we obtained from acquirers and payment facilitators on their merchant customers and the total card turnover and MSC paid by these merchant customers during 2021, we estimated that an increase in merchant switching per year of 1 percentage point would likely result in benefits of around £2.4 million in the first year to those merchants that switch.[65] Over a five-year time period, we calculate a NPV of around £26.5 million.[66]

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64 These ranged from a minimum of £402.93 to a maximum of £782.03. The interquartile range was from £411.94 to £486.65, with a median monthly cost of £463.97.

65 This can broadly be derived as follows:

- The data we obtained from providers indicated that merchant customers with annual card turnover between zero and £10 million had an average annual card turnover of £86,000 and, on average, paid an MSC of £683. Savings of 10% equate to £68 on average. We estimate that the directed providers had around three million contracts with such merchants in March 2022, the saving from 1% of them switching equals around £2.1 million.
- Merchant customers with annual card turnover between £10 million and £50 million had an average annual card turnover of £2.1 million and, on average, paid an MSC of £106,000. Savings of 5% equate to £5,000 on average. We estimate that the directed providers had over five thousand contracts so the saving from 1% of them switching equals around £0.3 million.

Where we did not have data on the number of merchant numbers in March 2022 split by card turnover for a directed provider, we estimated the split or used data collected during our card-acquiring market review relating to merchant customer numbers in 2018 or 2019.

66 The benefits to merchants that switch are assumed to accrue to them over three years rather than across the whole time horizon, since some merchants would likely have switched or renegotiated within that period absent the intervention. Gains in future years are also discounted by 3.5% per annum to reflect that merchants will typically place a lower value on future benefits.

### Gains from renegotiating

**1.118** There is relatively less evidence on the propensity for merchants to renegotiate and the gains from doing so:

- The Card-Acquiring Market Review merchant survey found that 21% of surveyed merchants had tried to negotiate better terms with their main provider at some point. Most of these merchants judged that they had negotiated an improvement.
- The merchant survey also indicated that the typical merchant had been with its main provider for between two and five years.

**1.119** Taken together, this indicates that the proportion of merchants that negotiate better terms annually appears broadly similar to the proportion that switch provider.[67]

**1.120** The merchant survey evidence and mystery shopping evidence referred to above indicate that providers are likely to be willing to offer better deals to merchants that seek to negotiate. The example above of providers that were willing to reduce their initial headline rates by 30% and 32% indicates that gains from negotiating can be significant. However, it is not clear that these are representative of the typical gains achievable by merchants that renegotiate with their existing provider.

**1.121** In the absence of further evidence, we consider that a conservative approach is to assume that our remedies are likely to increase rates of renegotiation at the same rate as increases in switching, but that the benefits achieved by merchants that renegotiate with the current provider may be only around half of those set out in paragraph 1.116 that are associated with switching provider.

**1.122** An increase in switching of 1% is therefore assumed to be associated with a broadly similar increase in renegotiation, with benefits of around £1.2 million per annum and a NPV of around £13.3 million over the time horizon.

### Average price reduction

**1.123** We requested information from a range of acquirers and payment facilitators on the total merchant service charge (MSC) collected from UK merchants with annual card turnovers up to £50 million. From the information received, we estimate that the total MSC paid by merchants totalled between £2.5 billion and £3.0 billion in 2021.

**1.124** On that basis, we note that a 1% average fall in fees across all merchants would constitute a reduction of fees of around £25 million in the first year (and a NPV of more than £100 million over the five-year period of the direction).

67 That indicates that between 4% and 11% of merchants currently try to negotiate each year, of which most judge they are successful.

## Conclusion

**1.125** The NPV of the implementation costs of the remedy package are estimated to be £40.8 million and £44.3 million based on the median and average of provider cost estimates (or £58.5 million based on upper-quartile estimates).

**1.126** These implementation costs are likely to be offset by the benefits to merchants commensurate with an increase in switching and renegotiating of around 1.1 percentage points (or 1.5 percentage points based on providers' higher cost estimates). An average price fall of around 0.5% would also likely offset the costs of implementation, based on providers' higher cost estimates.

**1.127** We consider that our conclusion is based on relatively conservative assumptions, both in terms of the estimated costs of implementation but also the assumed average savings that merchants can gain from switching and renegotiating.

**1.128** On that basis, the evidence indicates that the net impact of the remedies, and the remedy package, on merchants (and ultimately, consumers) is positive.

# Annex 2
# Options for content and format of summary boxes and trigger messages

## Content and format of summary boxes and online quotation tools

2.1 As explained in Chapter 2, we have provisionally concluded that summary boxes will be required to be provided in a prescribed format which will be published by the PSR.

2.2 We are working on the design for this format. We have commissioned research to test design options for summary boxes, and this will take account of design proposals we have received from stakeholders. We will include details of the testing and conclusions when we publish our final decision on our proposed remedies.

2.3 We are also consulting on the format for summary boxes. The options we have presented for market testing are set out below. We invite comments from all stakeholders on these options. Please indicate which of the options you prefer and give your reasons for this.

2.4 Online quotation tools will be required to generate quotes in a format which will be published by the PSR. This will be based very closely on the prescribed summary box format, making like-for-like comparison as easy as possible.

## Summary box option 1

PSR Payment Systems Regulator

We are required by the PSR to provide you with this summary box to help you make informed decisions about your card acceptance services. You can use it to compare offers from other providers, some of whom are required by the PSR to provide quotes in a similar format. You can obtain a quote from these providers' websites, using their online quotation tool.

### About you

| Contract expiry date | 28 December 2022 |
|---|---|

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Your total charges in previous 12 months | £1,155.22 | Total card acceptance in previous 12 months | £86,578.25 | Your average transaction value | £11.28 | Merchant Category Code (MCC) | Other retail |

### Your costs for accepting common individual card payments[0]

| Consumer domestic[1] | Mastercard | | VISA | |
|---|---|---|---|---|
| | Debit | Credit | Debit | Credit |
| Card present[2] | 0.7% | 0.9% | 0.7% | 0.9% |
| Card not present[3] | 0.9% | 1.1% | 0.9% | 1.1% |
| Transaction split[4] | 10% | 15% | 45% | 10% |

+

| Additional charges per transaction | |
|---|---|
| Authorisation fee | 4p |

| Other potential transaction charges | |
|---|---|
| Chargeback fee | £24.00 |
| Retrieval fee | £2.00 |
| Any other fees | |

**Example**

If your customer uses a Mastercard consumer debit card in person (in your store) to purchase a £10 item, you would pay: **7p** (0.7% of £10.00) **+ 4p** (authorisation fee) **= 11p**

### Some typical monthly charges you may have to pay in addition to transaction costs

| | |
|---|---|
| POS terminal (per terminal) | £20.00 |
| Gateway[5] | included |
| Payment Card Industry Data Security Standard (PCI DSS) fee[6] | £5.00 |
| Minimum Monthly Service Charge (MMSC)[7] | £20.00 |

| About your service | |
|---|---|
| Settlement time | 24 hours |
| Payment brands accepted | VISA<br>Mastercard<br>Amex |

0 These card types are the most commonly used cards for most merchants. You may also accept significant numbers of other card types including business cards, corporate cards and international cards which may cost more to accept. You can identify the types of cards you accept in your transaction information.

1 A card issued in the UK to a consumer.

2 A card transaction in which the cardholder is present and presents the card to you.

3 A card transaction that is not a card-present transaction such as e-commerce, mail order and telephone transactions.

4 The proportion of your transactions represented by each card type.

5 A service for capturing and transferring payment data.

6 Charges relating to compliance with a set of standards designed to protect the security of card transactions and reduce fraud.

7 Amount payable if your monthly transaction charges do not meet a minimum agreed amount.

### Summary box option 2

| BOX 1: YOUR MERCHANT SERVICE CHARGES | | | |
|---|---|---|---|
| Card Type | | | |
| Scheme | Consumer / Commercial | Credit / Debit | Rate |
| Visa | Consumer | Debit | x% |
| Visa | Consumer | Credit | x% |
| Visa | Commercial | Debit | x% |
| Visa | Commercial | Credit | x% |
| Mastercard | etc | etc | etc |
| Diners | etc | etc | etc |
| UTP | etc | etc | etc |
| etc | etc | etc | etc |

Please note that the MSC rates outlined above cover card payments that attract a standard domestic card-present interchange fee. Futher fees and charges may be added to these rates, depending on the exact nature of a particular transaction - e.g. where it is an international payment. Please see box 2 for an overview of such additional fees and charges.

| BOX 2: ADDITIONAL FEES AND CHARGES | | |
|---|---|---|
| **Fee Type** | **Fee Basis** | **Charge** |
| Visa Refund Fee | per refunded transaction | £x |
| MasterCard Refund Fee | per refunded transaction | £x |
| Visa Successful Authorisation Fee | per attempt | £x |
| Visa Declined Authorisation Fee | per attempt | £x |
| MasterCard Successful Authorisation Fee | per attempt | £x |
| MasterCard Declined Authorisation Fee | per attempt | £x |
| Visa Authentication Fee | per authentication attempt | x% |
| MasterCard Authentication Fee | per authentication attempt | x% |
| Chargeback Fees | per chargeback | £x |
| Minimum Billing | per month | £x |
| Joining Fee | One off | £x |
| Cancellation Fee | Cancellation within term | £x |
| Copy statement | per request | £x |
| Copy Chargeback Letter | per request | £x |
| Copy Agreement | per request | £x |
| Archive Requests | per request | £x |
| Name & Address Checking Service | per request | £x |
| Data Security Manager | per month | £x |
| Proacitve Security Service | per month per outlet | £x |
| PCI DSS Non-Compliance Fee | per month per outlet | £x |
| Terminal Rental | per month | £x |
| Terminal Rental Termination Fee | per terminal | £x |
| Gateway Management Fee | per month | £x |
| Gateway Transaction Fee | per gateway transaction | £x |
| Card Not Present fee | per CNP transaction | x% |
| International Transaction Fee | per interregional transaction | x% |

| BOX 3: TERMINATION | |
|---|---|
| Notice period to end your merchant acquiring contract | [x] days |
| Acquiring contract termination fee | £x |
| Minimum duration of payment terminal contract | [x] months |
| Notice period to end your payment terminal contract | [x] days |
| Payment terminal contract termination fee | £x |
| Other termination fees (if applicable) | [acquirer to specify] |

Please note that we will not charge you any termination fees when you want to end your acquiring contract or any payment terminal hire agreement with us.

| BOX 4: EXAMPLE TRANSACTIONS | | | | | |
|---|---|---|---|---|---|
| **Card Type** | **Transaction Channel** | **Region** | **Transaction Value** | **Real Cost** | **Effective Rate** |
| Visa Consumer Debit | Face-to-Face | Domestic | £x | £x | x% |
| Visa Consumer Credit | Card-Not-Present | Domestic | £x | £x | x% |
| MasterCard Consumer Debit | Face-to-Face | International | £x | £x | x% |
| MasterCard Consumer Credit | Card-Not-Present | International | etc | etc | etc |

# Content and format of trigger messages

2.5 We have provisionally concluded that trigger messages will be required to be provided in a prescribed format with content which will be published by the PSR.

2.6 We have commissioned research to test options for trigger messages. We will include the details of the testing and conclusions when we publish our final decision on our proposed remedies.

2.7 We are also consulting on trigger messages. The options we have presented for market testing are set out below. We invite comments from all stakeholders on these options. Please indicate which of the options you prefer, and give your reasons for this.

---

You are approaching the anniversary of our agreement for the provision of card acceptance services for your business on **88 December 8888**. You will then be able to shop around for an alternative provider. Your current deal **may no longer be suitable** for your needs, and you should consider seeking an up to date review or switching to an alternative provider who may be able to **save you money** or improve the service levels you receive. Information on your current deal can be found in the summary box, and an online calculator at **www.website.com**. You may also want to consider your POS terminal lease and rental contact arrangements, including the minimum contract end dates when considering options.

---

You are approaching the anniversary of our agreement for the provision of payment acceptance services for your business on **88 December 8888**.
Your current deal may **no longer be appropriate** for your needs and you are able to shop around for an alternative provider.
It might be worth seeking an up to date review or **switching to an alternative provider** who may provide you with better prices and service.

---

Our records show that we have been your provider of card acceptance services for [x] years.

- You can shop around for an alternative provider.
- **You may be able to find a better deal by shopping around alternative providers, potentially saving you money and giving you better service levels.**
- The key terms of your current deal are shown below. Keep this close, as it may help you to spot a better deal.
  You can also find an online calculator at **www.website.com**.

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# Annex 3
## Specific Direction X1 (card-acquiring – provision of information (summary box))

# DRAFT Specific Direction X1 requiring providers of card-acquiring services to provide information to merchants

## Specific Direction (card-acquiring – provision of information (summary box))

[Month] 2022

# DRAFT Specific Direction X1 (card-acquiring – provision of information (summary box))

## 1 Recitals

**Whereas:**

**1.1** The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded 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.

**1.2** In the final report, the PSR identified three features that individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.

**1.3** The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:

a. encouraging them to search and switch, or negotiate with their existing provider

b. reducing the obstacles to switching

c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information

**1.4** This specific direction is intended to remedy the feature of concern that acquirers and independent sales organisations (ISOs) do not typically publish their prices for card-acquiring services.

**1.5** This specific direction is intended to achieve greater transparency and comprehensibility for merchants by helping them to understand the pricing elements of any service they use and compare prices more easily.

**1.6** This direction is addressed to 14 specified PSPs.

# 2 Powers exercised and purpose

**2.1** Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.

**2.2** The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description, all of which are participants in the Visa Europe and Mastercard regulated payment systems.

**2.3** In making its decision to use its section 54 powers, the PSR had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.

**2.4** The purpose of this direction is to require directed PSPs to provide information to merchants in the form of a bespoke summary box setting out key price and non-price service elements of card-acquiring services. This direction also requires directed PSPs, and any ISOs offering card-acquiring services provided by the directed PSPs, to provide information to prospective customers through an online quotation tool that generates indicative key price and non-price information.

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# Direction

**NOW the PSR gives the following specific direction to:**

**Adyen UK Limited**

**Barclays Bank PLC**

**Chase Paymentech Europe Limited**

**Elavon Financial Services DAC**

**EVO Payments International GmbH, Branch UK**

**First Data Europe Limited**

**First Merchant Processing (Ireland) DAC**

**GPUK LLP**

**Lloyds Bank plc**

**PayPal (Europe) Sarl et Cie SCA**

**Square UK**

**Stripe Payments UK Ltd**

**SumUp Payments Limited**

**Worldpay (UK) Limited**

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## 3 General provisions

### Scope of this direction

**3.1** This direction applies to the 14 providers of card-acquiring services named above.

**3.2** This direction applies in relation to participation in the Visa Europe and Mastercard regulated payment systems.

**3.3** A relevant merchant is any merchant with an annual card turnover of up to £50 million.

**3.4** Paragraphs 3.5 to 3.12 of this direction apply in relation to any relevant merchant with a contract for card-acquiring services with a directed PSP.

## Requirements for providing information – summary box

**3.5** A directed PSP must provide information to relevant merchants in the form of a bespoke summary box.

**3.6** The bespoke summary box must include the information which is published on the PSR's website from time to time under the title 'Summary box template'.

**3.7** The information must be provided in the form published on the PSR's website from time to time under the title 'Summary box template'.

**3.8** The PSR may amend the information to be included under paragraph 3.6 or the form to be used under paragraph 3.7, and will provide reasonable notice of any such change.

**3.9** A directed PSP may provide additional information to merchants but it must do this separately from the bespoke summary box.

**3.10** The bespoke summary box must be provided at the head of:

a. any monthly billing information

b. any other periodic billing information

**3.11** If a directed PSP gives a merchant billing information through a merchant portal it must display the bespoke summary box in a prominent place. This obligation applies whether or not a merchant also receives billing information in another way.

**3.12** A directed PSP may not charge a merchant for the provision of a bespoke summary box.

## Requirements for providing information – online quotation tool

### PSPs

**3.13** A directed PSP must provide an online quotation tool on their website.

**3.14** The online quotation tool must:

a. ask relevant merchants that are prospective customers to enter key information

b. use that information to generate indicative pricing and non-pricing information (indicative information)

c. provide the indicative information to relevant merchants that are prospective customers

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**3.15** The key information referred to in paragraph 3.14a is:

a. total card acceptance in previous 12 months, if available

b. average transaction value

c. merchant category code

**3.16** The indicative information referred to in paragraph 3.14b and 3.14c is that which is published on the PSR's website from time to time under the title of 'Online quotation tool template'.

**3.17** The indicative information must be provided in the form published on the PSR's website from time to time under the title 'Online quotation tool template'.

**3.18** The PSR may amend the key and indicative information prescribed at paragraphs 3.15 and 3.16 or the form to be used under paragraph 3.17, and will provide reasonable notice of any such change.

**3.19** A directed PSP may allow its online quotation tool to provide other information in addition to the indicative information prescribed in paragraph 3.16.

**3.20** In order to facilitate the provision of other information as described at paragraph 3.19, a directed PSP may allow prospective customers to enter other information in addition to the key information prescribed in paragraph 3.15.

**3.21** If a directed PSP chooses to provide and/or allow additional information as set out in paragraphs 3.19 and 3.20, this must not affect the generation and provision of indicative information as set out in paragraphs 3.14 and 3.16.

**3.22** An online quotation tool must not demand contact details, including a telephone or email address, in order to generate and provide indicative pricing.

**3.23** A directed PSP may not charge a merchant for the use of an online quotation tool.

**3.24** The online quotation tool must be displayed prominently fashion on the directed PSP's website, no more than one click from the landing page.

### ISOs

**3.25** Sometimes a directed PSP will not have a direct relationship with a merchant using its card-acquiring services. If the merchant has contracted such services through a relevant ISO, the PSP must ensure that the relevant ISO hosts on its website an online quotation tool as required at paragraphs 3.13 to 3.24 above.

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3.26 A directed PSP must provide a relevant ISO with reasonable notice of any amendment to the 'summary box template' or 'online quotation tool template' which they are notified of in accordance with paragraphs 3.8 or 3.18 above.

3.27 A relevant ISO is any ISO which has a contract with a directed PSP where the purpose of the contract involves merchants using the directed PSP's card-acquiring services.

### General requirements

3.28 A directed PSP must take into account any relevant guidance the PSR publishes.

3.29 A directed PSP must make a relevant ISO aware of any relevant guidance the PSR publishes in a timely fashion.

3.30 A directed PSP must ensure as far as possible that any information provided to merchants under this direction is complete and accurate.

3.31 Reasonable modifications may be made to either the 'summary box template' form or the 'online quotation tool' form for accessibility reasons only. Such modifications may not include changes to the information or categories of information to be provided.

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## 4 Key definitions

4.1 **Act** means the Financial Services (Banking Reform) Act 2013.

4.2 **Billing information** means the total amount of transactions, fees and charges enabling a merchant to reconcile and confirm card acceptance costs.

4.3 **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.

4.4 **Card turnover** means total amount of card transactions taken by a merchant within a specified period.

4.5 **Contract for card-acquiring services** means an agreement between an acquirer and an organisation for the provision of card and affiliated services for the exchange of monetary value.

4.6 **Directed PSPs** means the PSPs to which this specific direction is given.

4.7 **Merchant portal** means an online service provided to a merchant to allow them to access information about their card-acquiring services at any time, including details of transactions acquired by the provider.

4.8 **Independent sales organisation (ISO)** means an organisation that sells card-acquiring and ancillary products and services on behalf of an acquirer, and in return is paid commission for the sales and/or ongoing management of the relationship.

4.9 **Merchant** means an organisation which accepts card payments.

4.10 **Participant** has the meaning given by section 42(2) of the Act.

4.11 **Payment facilitator** means a PSP that contracts with one or more merchants to provide card-acquiring services, but may not have a direct contractual relationship with the operator of a card payment system. A payment facilitator must be registered with the operator of a card payment system by an acquirer with whom it contracts.

4.12 **Payment system** has the meaning given by section 41 of the Act.

4.13 **Payment Systems Regulator** or **PSR** means the body corporate established under Part 5 of the Act.

4.14 **POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.

4.15 **PSP** means a payment service provider within the meaning of section 42 of the Act.

4.16 **Regulated payment system** means a payment system designated by HM Treasury under section 43 of the Act.

# 5 Monitoring

5.1 The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:

a. this direction

b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance

5.2 The PSP must provide the report required under paragraph 5.1 by the date given by the PSR.

5.3 The PSR may from time to time in writing require a directed PSP to provide or produce information about:

a. how the PSP is complying, or proposes to comply, with this direction

b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction

5.4 The PSP must provide the information by the date given by the PSR.

# 6 Application

6.1 This direction applies to the directed PSPs named above.

# 7 Commencement and duration

7.1 This specific direction comes into force on [THREE MONTHS AFTER THE DATE OF PUBLICATION].

7.2 This specific direction shall continue in force until such time as it is varied or revoked by the PSR.

7.3 The PSR will review this direction three years and five years after the date on which it comes into force.

7.4 The PSR may also review this direction at any other time than as provided for in paragraph 7.3.

7.5 The PSR may vary or revoke this direction at any time.

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# 8 Citation

8.1 This specific direction may be cited as Specific Direction X1 (card-acquiring – provision of information (summary box)).

# 9 Interpretation

9.1 The headings and titles used in this specific direction are for convenience and have no legal effect.

9.2 The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.

9.3 References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

9.4 In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on [DATE]**

**Chris Hemsley**
Managing Director
Payment Systems Regulator

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# Explanatory notes

## Summary box

**1.** With respect to pricing information on transactional charges, this direction is intended to take into account that different PSPs offer card-acquiring service products that differ in how the cost of accepting a transaction is determined. PSPs may apply a 'headline rate' to a particular type of transaction which can take the form of a pence per transaction fee, an ad valorem fee or a combination of the two. Some PSPs may also apply additional transaction charges to certain transactions – for example, card-not-present transactions. The intention is that the summary box clearly explains to the merchant how they are charged for accepting transactions and to highlight that the different characteristics of a transaction may affect the cost.

**2**. With respect to pricing information on non-transactional charges, this direction is intended to take into account the fact that for merchants using many different CAS products, transaction charges will not account for all of their charges; in many cases, non-transactional charges will represent a significant portion of their total charges for accepting card payments. The summary box is therefore intended to capture some of the more significant recurring charges to highlight to merchants that these charges will also apply and the level of these charges. Where a provider does not charge such fees, or a third party provides and charges the merchant directly for certain services (such as supplying POS terminals), they will be able to note this accordingly.

## Online quotation tool

**3**. By displaying a quote in a format based closely on the summary box format, merchants will be able to easily compare the quote with their summary box information provided by their existing provider. This will inform their decisions whether to switch provider or, alternatively, to attempt to negotiate better pricing with their existing provider.

**4**. The pricing and non-price information contained in the quote is intended to be indicative. This direction takes into account that the provider will need additional information and to undertake certain processes (such as 'know-your-customer' (KYC) and anti-money laundering checks) from the merchant in order to provide a contractual offer with binding pricing. That said, as many of the key information items providers use to determine pricing are contained in the summary box (for example, average transaction value, merchant category code, etc), the expectation is that the indicative pricing (and non-price factors) will be reasonably proximate to what the provider may offer on a binding basis.

## Application to ISOs

**5**. ISOs can be an important entry point for merchants looking to buy card-acquiring services. ISOs are tasked by acquirers with procuring new merchant relationships in return for commission. Given ISOs' role in merchant recruitment, the PSR is directing the directed PSPs to ensure that any ISOs they work with provide online quotation tools. This will allow merchants to have access to a wide range of indicative pricing information, which they can use to inform their decisions when shopping around.

**6**. The PSR would expect a directed PSP to make partner ISOs aware of the relevant requirements of this direction and any other applicable guidance, publication or consultation by the PSR. It should do so in a timely manner.

## Modifications for accessibility

**7**. The direction allows for reasonable modifications to be made to the prescribed forms for the summary box and/or online quotation tool where necessary for accessibility reasons – for example, to allow for an Easy Read version. No modifications other than those necessary may be made to the format, and all information prescribed must be included.

# Status of directions and explanatory notes

Directions give rise to binding obligations. Breaching a direction is a compliance failure which makes a party liable to regulatory sanction.

Explanatory notes may be used, among other things, to explain provisions and requirements (such as General Directions) and/or to indicate how to approach compliance.

# Annex 4
# Specific Direction X2 (card-acquiring – trigger messages)

Payment
Systems
Regulator

# DRAFT Specific Direction X2 requiring providers of card-acquiring services to provide prompts to merchants

## Specific Direction (card-acquiring – trigger messages)

[Month] 2022

# DRAFT Specific Direction X2 (card-acquiring – trigger messages)

## 1 Recitals

**Whereas:**

1.1 The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded 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.

1.2 In the final report, the PSR identified three features that individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.

1.3 The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:

a. encouraging them to search and switch, or negotiate with their existing provider

b. reducing the obstacles to switching

c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information

1.4 This specific direction is intended to remedy the feature of concern of the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services.

1.5 This direction is addressed to 14 specified PSPs.

# 2 Powers exercised and purpose

**2.1** Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.

**2.2** The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description, all of which are participants in the Visa Europe and Mastercard regulated payment systems.

**2.3** The PSR has had regard as appropriate to sections 49 to 53 (General duties of the Regulator) and section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.

**2.4** The purpose of this direction is to require directed PSPs to provide a trigger message to merchants before the end of the initial minimum term and monthly thereafter, to encourage merchants to consider searching and switching providers.

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# Direction

**NOW the PSR gives the following specific direction to:**

**Adyen UK Limited**

**Barclays Bank PLC**

**Chase Paymentech Europe Limited**

**Elavon Financial Services DAC**

**EVO Payments International GmbH, Branch UK**

**First Data Europe Limited**

**First Merchant Processing (Ireland) DAC**

**GPUK LLP**

**Lloyds Bank plc**

**PayPal (Europe) Sarl et Cie SCA**

**Square UK**

**Stripe Payments UK Ltd**

**SumUp Payments Limited**

**Worldpay (UK) Limited**

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## 3 General provisions

### Scope of this direction

3.1 This direction applies to the 14 providers of card-acquiring services named above.

3.2 This direction applies in relation to participation in the Visa Europe and Mastercard regulated payment systems.

3.3 This direction applies in relation to merchants with an annual card turnover of up to £50 million.

### Requirements for providing information – trigger message

3.4 A directed PSP must send an individual message (trigger message) to a merchant with a contract for card-acquiring services.

**3.5** The trigger message must include the following:

a. Where there is a minimum term to the merchant's contract:

   1. the fact that the end of the term is approaching
   2. the date the minimum term ends on

b. An explanation that the merchant can shop around to see if they can get a better deal.

c. An explanation that consumption information is available in the merchant's summary box.

d. Information about the directed PSP's online quotation tool, which merchants can use to find indicative information.

e. A link to the directed PSP's online quotation tool.

f. An explanation that similar online quotation tools are available from other providers.

g. An explanation that merchants may want to consider other service features as well as price when they assess their options.

h. An explanation that merchants may want to consider POS terminal lease or rental contract arrangements, including minimum contract end term dates, when they assess their options.

**3.6** If there is no minimum term, then the message must include the items outlined in paragraphs 3.5(b) to (h).

**3.7** Where there is an initial minimum term to the contract referred to in paragraph 3.4, the 'relevant date' for providing a trigger message is:

a. 30 calendar days prior to the last day of the minimum term period, and

b. once the minimum term is complete, monthly thereafter

**3.8** Where the initial minimum term to the contract referred to in paragraph 3.4 has already finished, the 'relevant date' for providing a trigger message is:

a. 30 calendar days prior to the anniversary of the last day of the initial minimum term, and

b. monthly thereafter

**3.9** Where there was no initial minimum term to the contract referred to in paragraph 3.4, the 'relevant date' for providing a trigger message is:

a. the date which is one month after the date on which the contract was agreed, and

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b. monthly thereafter

**3.10** Where a directed PSP sends a merchant monthly billing information, it must include a trigger message in the monthly invoice it sends to that merchant closest to the 'relevant date'.

**3.11** A directed PSP must include a trigger message provided in accordance with paragraph 3.10 on the front page of the merchant's monthly billing statement.

**3.12** Where a merchant accesses an account through a merchant portal, a directed PSP must display a trigger message continuously from the 'relevant date' either:

a. where there is an initial minimum term which is not yet complete, until the date on which that term expires, or

b. where the initial minimum term has already passed, or where there was no initial minimum term, for one month

A directed PSP must display a trigger message provided in accordance with paragraph 3.12(a) or (b) prominently on the first landing page of the electronic dashboard.

### General

**3.13** A directed PSP must take into account any relevant guidance the PSR publishes.

**3.14** A directed PSP must ensure that any information it provides to merchants under this direction is complete and accurate.

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## 4 Key definitions

**4.1** **Act** means the Financial Services (Banking Reform) Act 2013.

**4.2** **Billing information** means the total amount of transactions, fees and charges enabling a merchant to reconcile and confirm card acceptance costs.

**4.3** **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.

**4.4** **Contract for card-acquiring services** means an agreement between an acquirer and an organisation for the provision of card and affiliated services for the exchange of monetary value.

**4.5** **Directed PSPs** means the PSPs to which this specific direction is given.

4.6 **Electronic dashboard** means an online service provided to a merchant to allow them to access information about their card-acquiring services at any time, including details of transactions acquired by the provider.

4.7 **Initial minimum term** means the shortest length of the first term of a contract, and is typically referred to as 'minimum term', 'minimum period' or 'initial term' in POS terminal contracts.

4.8 **Merchant** means an organisation which accepts card payments.

4.9 **Online quotation tool** means the tool for generating indicative pricing mandated in Specific Direction X1 (card-acquiring – provision of information (summary box)).

4.10 **Participant** has the meaning given by section 42(2) of the Act.

4.11 **Payment System** has the meaning given by section 41 of the Act.

4.12 **Payment Systems Regulator** or **PSR** means the body corporate established under Part 5 of the Act.

4.13 **POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.

4.14 **POS terminal lease or rental** means a contract entered into by a merchant to lease or rent a device that enables the acceptance of card transactions for processing by an acquirer related to a card scheme.

4.15 **PSP** means a payment service provider within the meaning of section 42 of the Act.

4.16 **Regulated payment system** means a payment system designated by HM Treasury under section 43 of the Act.

# 5 Monitoring

5.1 The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:

a. this direction

b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance

5.2 The PSP must provide the report required under paragraph 5.1 by the date given by the PSR.

5.3 The PSR may from time to time in writing require a directed PSP to provide or produce information about:

a. how the PSP is complying, or proposes to comply, with this direction

b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction

5.4 The PSP must provide the information by the date given by the PSR.

# 6 Application

6.1 This direction applies to the directed PSPs named above.

# 7 Commencement and duration

7.1 This specific direction comes into force on [THREE MONTHS AFTER THE DATE OF PUBLICATION].

7.2 This specific direction shall continue in force until such time as it is varied or revoked by the PSR.

7.3 The PSR will review this direction three years and five years after the date on which it comes into force.

7.4 The PSR may also review this direction at any other time than as provided for in paragraph 7.3.

7.5 The PSR may vary or revoke this direction at any time.

# 8 Citation

8.1 This specific direction may be cited as Specific Direction X2 (card-acquiring – provision of information (trigger messages)).

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# 9 Interpretation

**9.1** The headings and titles used in this specific direction are for convenience and have no legal effect.

**9.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.

**9.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

**9.4** In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on [DATE]**

**Chris Hemsley**
Managing Director
Payment Systems Regulator

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# Annex 5
## Specific Direction X3 (acquirer POS terminal lease extent)

Payment
Systems
Regulator

# DRAFT Specific Direction X3 limiting the length of initial terms for point-of-sale terminal contracts

## Specific Direction (acquirer POS terminal lease extent)

[Month] 2022

# Specific Direction X3
## (acquirer POS terminal lease extent)

## 1 Recitals

**Whereas:**

**1.1** The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded 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.

**1.2** In the final report, the PSR identified three features that individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.

**1.3** The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:

a. encouraging them to search and switch, or negotiate with their existing provider

b. reducing the obstacles to switching

c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information

**1.4** This specific direction is intended to remedy the feature of concern that POS terminals and POS terminal contracts discourage merchants from searching and switching provider of
card-acquiring services.

**1.5** This direction is addressed to 14 specified PSPs.

# 2 Powers exercised and purpose

2.1 Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.

2.2 The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description, all of which are participants in the Visa Europe and Mastercard regulated payment systems.

2.3 In making its decision to use its section 54 powers, the PSR had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.

2.4 The purpose of this direction is to require directed PSPs to ensure that merchant contracts which include provision of POS terminals and incur scheduled payments, where that merchant is making use of the directed PSP's card-acquiring services, do not have an initial term in excess of 18 months and thereafter move to a rolling monthly contract.

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# Direction

**NOW the PSR gives the following specific direction to:**

**Adyen UK Limited**

**Barclays Bank PLC**

**Chase Paymentech Europe Limited**

**Elavon Financial Services DAC**

**EVO Payments International GmbH, Branch UK**

**First Data Europe Limited**

**First Merchant Processing (Ireland) DAC**

**GPUK LLP**

**Lloyds Bank plc**

**PayPal (Europe) Sarl et Cie SCA**

**Square UK**

**Stripe Payments UK Ltd**

**SumUp Payments Limited**

**Worldpay (UK) Limited**

# 3 General provisions

## Scope of this direction

**3.1** This direction applies to the 14 providers of card-acquiring services named above.

**3.2** This direction applies in relation to participation in the Visa Europe and MasterCard regulated payment systems.

**3.3** This direction applies in relation to any contract or other arrangement, however named, which:

a. includes the provision of one or more POS terminals

b. specifies a schedule of at least two payments, and

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c. is between a merchant with an annual card turnover of up to £10,000,000 which makes use of card-acquiring services operated or provided by a directed PSP, and either:

    1. a directed PSP, or

    2. a third party such as an ISO or leasing company

## Requirements for POS terminal contracts

### New POS terminal contracts

**3.4** In relation to a new relevant merchant terminal contract, a directed PSP must ensure that:

a. if there is an initial minimum term:

    1. it is not longer than 18 months, and

    2. once any initial minimum term is completed (and the contract does not at that point terminate), the contract has a maximum one-month recurring term, with one month's notice on the merchant's side

b. if there is no initial minimum term, after a maximum of 18 months from the date the contract was entered into has passed, the contract is subject to a maximum one-month recurring term, with one month's notice on the merchant side

**3.5** A new relevant merchant contract is a contract that:

a. meets the criteria in paragraph 3.3, and

b. is entered into on or after the date on which this specific direction comes into force

### Existing POS terminal contracts

**3.6** In relation to an existing relevant merchant contract, a directed PSP must ensure that:

a. once any initial minimum term is completed, the contract has a maximum one month recurring term, with one month's notice on the merchant's side; or

b. where there was no initial minimum term, after the period of a maximum of 18 months from the date the contract was entered into has passed, the contract is subject to a maximum one month recurring term, with one month's notice on the merchant's side.

**3.7** An existing POS terminal contract is a contract that:

a. meets the criteria in paragraph 3.3, and

b. was entered into before the date on which this specific direction came into force

3.8 A directed PSP must take into account any relevant guidance the PSR publishes.

Third party providers

3.9 Where the directed PSP does not directly contract with a merchant for the provision of one or more POS terminals, the PSP must ensure that the relevant provider of such equipment complies with the requirements of paragraphs 3.4 to 3.7 of this direction.

3.10 A directed PSP must draw the attention of a relevant provider to any relevant guidance the PSR publishes.

3.11 A relevant provider is any provider of POS terminal equipment which has:

a. a contract which meets the criteria at paragraph 3.3, and
b. a contractual relationship with:
   1. a directed PSP, or
   2. an ISO with a contractual relationship with a directed PSP, or
   3. a payment facilitator which is not a directed PSP, but provides access to the card-acquiring services of a directed PSP

# 4 Key definitions

4.1 **Act** means the Financial Services (Banking Reform) Act 2013.

4.2 **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.

4.3 **Directed PSPs** means the PSPs to which this specific direction is given.

4.4 **Independent sales organisation (ISO)** means an organisation which sells acquiring services to merchants by contractual agreement with an acquirer.

4.5 **Initial minimum term** means the shortest length of the first term of a contract, and is typically referred to as 'minimum term', 'minimum period' or 'initial term' in POS terminal contracts.

4.6 **Merchant** means an organisation which accepts card payments.

4.7 **Participant** has the meaning given by section 42(2) of the Act.

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**4.8** **Payment facilitator** means a PSP that contracts with one or more merchants to provide card-acquiring services, but may not have a direct contractual relationship with the operator of a card payment system. A payment facilitator must be registered with the operator of a card payment system by an acquirer with whom it contracts.

**4.9** **Payment System** has the meaning given by section 41 of the Act.

**4.10** **Payment Systems Regulator** or **PSR** means the body corporate established under Part 5 of the Act.

**4.11** **POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.

**4.12** **POS terminal contract** means any contract or other arrangement as described at paragraph 3.3.

**4.13** **PSP** means a payment service provider within the meaning of section 42 of the Act.

**4.14** **Regulated payment system** means a payment system designated by the Treasury under section 43 of the Act.

# 5 Monitoring

**5.1** The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:

a. this direction

b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance issued by the PSR

**5.2** The PSP must provide the report required under paragraph 5.1 by the date given by the PSR.

**5.3** The PSR may from time to time in writing require a directed PSP to provide or produce information about:

a. how the PSP is complying, or proposes to comply, with this direction;

b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction.

**5.4** The PSP must provide the information by the date given by the PSR.

# 6 Application

**6.1** This direction applies to the directed PSPs named above.

# 7 Commencement and duration

**7.1** This specific direction comes into force on [THREE MONTHS AFTER THE DATE OF PUBLICATION].

**7.2** This specific direction shall continue in force until such time as it is varied or revoked by the PSR.

**7.3** The PSR will review this direction three years and five years after the date on which it comes into force.

**7.4** The PSR may also review this direction at any other time than as provided for in paragraph 7.3.

**7.5** The PSR may vary or revoke this direction at any time.

# 8 Citation

**8.1** This specific direction may be cited as Specific Direction X3 (acquirer POS terminal lease extent).

# 9 Interpretation

**9.1** The headings and titles used in this specific direction are for convenience and have no legal effect.

**9.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.

**9.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

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**9.4** In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on [DATE]**

**Chris Hemsley**
Managing Director
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