

Consultation paper

# Market review into card-acquiring services

Consultation on remedies

January 2022

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We welcome your views on this consultation. If you would like to provide comments, please send these to us by **5pm** on **6 April 2022**.

You can email your comments to [cards@psr.org.uk](mailto:cards@psr.org.uk) or write to us at:

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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:

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# 1 Introduction

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- 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 published the Final Report of our findings from the review in November 2021.
  - 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 this document, we set out the outcomes which should be achieved through the implementation of remedies. We then discuss some potential options to address the features of concern identified in the market review.
  - We invite comments on these points through questions to stakeholders set out in this document. We also invite industry to develop and submit detailed specifications for the potential remedies discussed, and alternative suggestions if they wish to propose these.
  - After we receive responses to this consultation, we will assess all the evidence and consider the costs and benefits of the potential remedies.
  - We plan to issue a provisional decision and draft remedies notice, and a final remedies notice if necessary in 2022.
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## Why this matters

- 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.<sup>1</sup> The crucial role card-acquiring services play in the payments sector means it is important they work well for merchants, and ultimately consumers.

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1 UK Finance, *UK Payment Markets 2021* (2021).

- 1.3** In November 2021, we published the Final Report on our review of the market for card-acquiring services.<sup>2</sup> Our findings, summarised below, included identification of three features of concern in relation to the supply of card-acquiring services. In this document we explain the outcomes which should be achieved through the implementation of remedies. We also discuss remedies we have identified as potential options to address the features of concern identified in the market review.

## The market review

- 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 general 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. This makes it difficult for merchants to compare prices for ISOs, acquirers and payment facilitators.

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2 See <https://www.psr.org.uk/publications/market-reviews/mr18-1-8-card-acquiring-report-final/>

- **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.
- **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 a better deal with their existing provider
- reducing the obstacles to getting a better deal
- creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants as merchants become more engaged

**1.9** For full information on the market review, our findings and conclusions, please see the Final Report which we published in November 2021.

## The outcomes we want to achieve

- 1.10** In the PSR strategy, we identify outcomes we will seek to achieve. These include protecting users of UK payment systems, and promoting competition in markets where it is not sufficient.<sup>3</sup> In addressing the features of concern identified in the market review, we aim to achieve these outcomes in the card-acquiring market by improving merchants' ability to search and switch between providers of acquiring services. This will also strengthen competition between providers of card-acquiring services as they compete more vigorously for merchant business.

## Remedies under consideration

- 1.11** In Chapter 2, we explain our current thinking on potential remedies designed to address the features of concern identified in the market review by increasing merchant engagement and ensuring the market works better for them.
- 1.12** We have identified four potential remedies which, based on the evidence available to us, could be developed to address the issues we identified in the market review.
- 1.13** These remedies are summarised in Table 1.

**Table 1: Summary of potential remedies under consideration**

Potential remedy	Description	Feature of concern each remedy would address
<b>Summary information boxes</b>	Standardised key facts information setting out key price points and non-price service elements, both in bespoke specific format provided to each merchant, and in generic format which would be published	Acquirers and ISOs do not typically publish their prices for card-acquiring services. Their pricing structures and approaches to headline rates vary significantly. This makes it difficult for
<b>Stimulating digital comparison tools (DCTs) for merchants</b>	Measures to encourage DCT entry into the card-acquiring market	merchants to compare prices for ISOs, acquirers and payment facilitators

<sup>3</sup> See <https://www.psr.org.uk/publications/general/the-psr-strategy/>

Potential remedy	Description	Feature of concern each remedy would address
<b>Trigger messages</b>	A standardised message sent by card-acquirers to merchants ahead of initial contract expiry, and then annually to trigger engagement	The indefinite duration of acquirer and payment facilitator contracts for card-acquiring services which means there is no clear trigger point for merchants to think about searching for another provider, or switching, or renegotiating their current terms
<b>Addressing barriers to switching between card-acquiring services which arise from POS terminal leases</b>	Ensuring POS terminal lease arrangements are not a barrier to switching between card-acquiring services	POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching between card-acquiring services

## Our assessment of the outcomes sought

- 1.14** We are working on a cost-benefit analysis (CBA) which will be important to ensure that the eventual outcomes of this process are effective and proportionate. Our proposed approach to the CBA is published in the annex to this document, and we invite comments from stakeholders on this. The CBA will be developed as we progress the work on remedies and gather further evidence.
- 1.15** Information submitted to us in response to this document will be used to develop the CBA together with other evidence sources. For example:
- We will issue formal Information Requests (IR) where specific information is required which cannot be obtained through responses to the consultation questions in this document.
  - We may commission a study to assess the feasibility of digital comparison tools (DCTs) for card-acquiring services (see paragraphs 2.42 to 2.43).
  - We are engaging with a range of stakeholders, including providers of card-acquiring services, merchant representatives, and other sector regulators on the issues raised in the market review.

## Consultation process and next steps

- 1.16** In this document we explain the outcomes which should be achieved through the implementation of potential remedies to address the features of concern identified in our review of the card-acquiring market, and we discuss options for remedies.
- 1.17** We invite comments on these options and have included specific questions for stakeholders in the document.
- 1.18** To develop proposals for remedies, we will ensure we have relevant information on the operations and systems of providers of card-acquiring services and POS terminal lease providers, and any changes to these needed to address the features of concern. We are inviting providers of card-acquiring services and POS terminal lease providers to submit proposed specifications for the remedies we identified, and alternative suggestions if they wish to propose these. Proposals should be accompanied by supporting evidence as to why they would be effective.
- 1.19** The deadline for responses to this document is **5pm on 6 April 2022**.
- 1.20** Once this first stage of consultation is completed, we will consider the information and evidence submitted to us in response. We will assess all the evidence and consider the costs and benefits of options to address the features of concern before completing our CBA for any remedies.
- 1.21** We will issue a provisional decision, including a draft remedies notice if our findings support this. Publication of the provisional decision will give all interested parties an opportunity to comment on our proposals and supporting analysis as well as the draft remedies notice.
- 1.22** We will issue a final remedies notice, if our findings support this, following completion of consultation on the provisional decision. The final remedies notice will include information on implementation periods for any changes required of industry.

## How we will monitor the remedies

- 1.23** The PSR will establish a framework to monitor 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 develop the framework through consultation with stakeholders, including providers of card-acquiring services, and merchants and merchant representatives. See paragraphs 2.97 to 2.101 for further information and a question to stakeholders on this. The framework to monitor outcomes will be separate to our monitoring of compliance with requirements put in place.
- 1.24** 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.<sup>4</sup>

## Structure of this consultation document

- 1.25** This remainder of this consultation document is structured as follows:
- Chapter 2 explains the outcomes which should be achieved through the implementation of potential remedies, discusses options for remedies, and explains how we will develop a monitoring framework.
  - Chapter 3 lists the questions for consultation, explains how to respond to this consultation, and sets out expected next steps.
  - The Annex to the document sets out our proposed approach to the CBA.

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<sup>4</sup> While remedies of the type under consideration would be new in the card-acquiring market, we are aware that interventions to improve consumer information and remove friction from supplier switching have been made by other regulators in other markets. We note that, in some cases where regulators have initially targeted information remedies, they have subsequently made further interventions to address residual concerns. For example, in 2018, Ofcom announced reductions to BT line rental tariffs for landline-only customers. While BT agreed to these reductions voluntarily, they followed an investigation by Ofcom which found prices had increased while wholesale costs had fallen, and made proposals for regulated price reductions. Ofcom's investigation was undertaken, and the subsequent remedy put in place even though comparative information was available through price comparison services.

## 2 Remedies under consideration

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We are considering potential remedies to address the features of concern identified in the card-acquiring market review which (individually and/or in combination) restrict merchants' ability and willingness to search and switch between providers of card-acquiring services. In this section we explain our current thinking, including on four potential remedies we have identified.

The four remedies we are considering are:

- Summary information boxes setting out key price and non-price service elements of card-acquiring services, to be provided to merchants both in bespoke form, and published with general information in generic format
- Stimulating DCTs for merchants
- Standardised messages to trigger merchant engagement sent by providers of card-acquiring services to merchants ahead of their contract initial term ending and annually thereafter
- Addressing barriers to switching between card-acquiring services which arise from POS terminal leases

We explain the intended outcomes and rationale for these remedies, and invite all stakeholders to submit views and further evidence on them.

We will ensure we have relevant information on the operations and systems of providers of card-acquiring services and POS terminal lease providers, and any changes to these needed to address the features of concern. We invite industry to develop detailed proposed specifications for the remedies we describe and for any other measures they wish to propose. Proposals should include supporting evidence of why they would be effective and proportionate.

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### Introduction

- 2.1** In this chapter, we explain our current thinking and describe the four potential remedies which are appropriate to address each of the features of concern identified in the market review based on our current analysis.

**2.2** It is likely that some remedies will be more effective for some merchants than others within the merchant groups affected by the features of concern (that is, those with turnover up to £50 million per year). For example, information remedies may be relatively more beneficial to smaller merchants that are less able to absorb the cost of researching options. We will consider this as we gather and assess further evidence to support our work on remedies.

**2.3** This chapter is structured according to the three features of concern, with the analysis of remedies for each of these grouped accordingly as in Table 2.

**Table 2: Potential remedies grouped by feature of concern they are targeted to address**

Feature of concern	Potential remedy
<b>Acquirers and ISOs do not typically publish their prices for card-acquiring services. Their pricing structures and approaches to headline rates vary significantly. This makes it difficult for merchants to compare prices for ISOs, acquirers and payment facilitators</b>	Summary information boxes  Stimulating digital comparison tools (DCTs)
<b>The indefinite duration of acquirer and payment facilitator contracts for card-acquiring services which means there is no clear trigger point for merchants to think about searching for another provider, or switching, or renegotiating their current terms</b>	Trigger messages sent at end of contract and annually thereafter
<b>POS terminals and POS terminal contracts that prevent or discourage merchants from searching and switching between card-acquiring services</b>	Addressing barriers to switching between card-acquiring services which arise from POS terminal leases

## Difficulty for merchants comparing prices

**2.4** In our final report, we set out our conclusions from the market review on pricing of card-acquiring services.

**2.5** In summary, we found prices for card-acquiring services generally are not published by acquirers and ISOs. Also, the structure of prices varies between providers of acquirer services. Hence it is difficult for merchants to compare prices for card-acquiring services.

**2.6** Here we set out our current thinking on remedies to achieve better outcomes for merchants in relation to easing merchant comparison of pricing of card-acquiring services.

## Remedies we considered and are not pursuing at this stage

### Simplification of prices

- 2.7** We have considered whether a direct intervention requiring providers to simplify their pricing structures would be an effective and proportionate remedy to facilitate easier comparison of prices by merchants.
- 2.8** While we consider this a credible option, there would be associated risks, including to product and pricing innovation. At this stage, we therefore prefer to investigate other remedies which, on the basis of the information available to us, would make it easier for merchants to compare prices without creating risks for pricing flexibility and innovation. We will consider a price simplification remedy if other remedies prove ineffective, based on our monitoring of market outcomes or other evidence.

## Remedies we are considering

### Summary information boxes

- 2.9** We are investigating the provision of summary information boxes by providers of card-acquiring services to their merchant customers, to improve merchants' ability to search and switch between providers of card-acquiring services. Summary information boxes could promote simplification of prices and make comparison easier.
- 2.10** To work effectively, summary boxes would need to cover non-price as well as price information. Without relevant non-price information, merchants would not be able to compare prices effectively because some of the service elements comprised in the prices paid would be less transparent than the prices themselves. This could create inefficient or inaccurate comparison tools in which merchant choices are skewed disproportionately towards consideration of prices only, rather than a complete picture of the services on offer.
- 2.11** Summary boxes could contain key price and non-price factors in a standardised format. We are considering two types of summary information box:
- Bespoke individual summary boxes provided by acquirers 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 provided to all customers and potential customers on provider websites. This would enable merchants to quickly assess pricing and service options across a range of acquirers.

- There would need to be a degree of standardisation across and between both bespoke individual summary boxes and generic summary boxes. This would enable merchants to compare between tailored information provided to them in bespoke summary boxes and more general information on service options provided in generic summary boxes.

**2.12** Bespoke summary boxes would contain individual information to help the merchant understand their options and switch if they want to. For example:

- Pricing information for the merchant, including prices per transaction, service consumption data broken down by different types of cards, the amount paid by the merchant for their card-acquiring services in the previous 12 months, and how this has changed since the start of the contract.
- Non-price elements of the service to enable the merchant to understand the full package of their card-acquiring service.
- The end date (if any) of the minimum term for the merchant's contract.
- Where there is no minimum term, or the minimum term has passed, an indication that the merchant is free to change card-acquirer without penalty.
- Information on how switching works and what merchants should do if they want to switch.
- Arrangements for POS terminal switching if the merchant opts to switch their card-acquiring service, including POS terminal lease minimum-term end dates if applicable.
- Information on potential savings to the merchant from switching.

**2.13** Generic summary boxes could be designed to include information which will be useful to as many merchants as possible, for example:

- Presentation of pricing information in a comparable format which would assist quick and easy comparisons by merchants that want to compare summaries across a number of acquirers.
- Transaction charges for the largest types of card purchase. For example, Visa and MasterCard account for a high proportion of transactions between them across both their debit card and credit card products.
- Non-price service elements – for example, billing, settlement times, merchant support services, POS terminal lease arrangements, security, fraud prevention, currency conversion. This information would improve the capability of merchants to understand and compare prices and overall value by making other service elements more transparent.
- Information on how switching works and what merchants should do if they wish to switch.

**2.14** Summaries of key facts information have been used in other sectors, including financial services, for example:

- The Financial Conduct Authority requires mortgage providers to produce Key Facts Illustrations (KFIs).<sup>5</sup>
- The use of key information documents was introduced by the EU for packaged retail investment and insurance products.<sup>6</sup>
- The Treasury Select Committee advocated the use of summary boxes for credit cards<sup>7</sup> as a response to firms burying key terms and conditions in small print, making it difficult for consumers to compare different products. The credit card industry proceeded with the introduction of summary boxes, and the UK Cards Association Summary Box Guidelines were incorporated into the Lending Code.

**2.15** Evidence on the effectiveness of summary boxes is mixed. In its Mortgage Market Review (2010)<sup>8</sup>, the FSA found that KFIs had not performed as expected, despite efforts to test and refine the information to provide clear and concise details.

**2.16** The joint FCA/CMA report, *Helping people get a better deal: Learning lessons about consumer facing remedies*<sup>9</sup>, found that transparency alone may not be enough to overcome demand-side problems in consumer markets, and that standardised and personalised information helps this. The report noted that transparency can be more effective when combined with remedies that facilitate service comparisons to aid shopping around and switching, and that providing personalised information on product use may also aid switching.

**2.17** Taking account of this evidence from other markets, summary boxes for merchants in relation to card-acquiring services are likely to be most effective:

- when provided in bespoke format with tailored, merchant-specific information, as well as in generic format; and
- when used in combination with other tools to help merchants compare and switch between offerings, for example:
  - Summary boxes and trigger remedies are likely to work in a complementary way to increase awareness and engagement from merchants, and a summary box could be used as part of a trigger mechanism.

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<sup>5</sup> See <https://www.fca.org.uk/publication/consultation/cp16-18.pdf>

<sup>6</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R1286&rid=8>

<sup>7</sup> See: <https://publications.parliament.uk/pa/cm200405/cmselect/cmtreasy/274/27405.htm>

<sup>8</sup> <https://www.fca.org.uk/publication/consultation/fsa-cp10-28.pdf>

<sup>9</sup> See: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744521/UK\\_consumer\\_remedies\\_project\\_-\\_lessons\\_learned\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744521/UK_consumer_remedies_project_-_lessons_learned_report.pdf)

- Summary boxes and DCTs would also be complementary remedies. Merchants could potentially use data from bespoke summary boxes in combination with service comparison tools provided by DCTs. Also, merchants may find summary boxes useful as an initial check of options which they then research more comprehensively using DCTs.

**2.18** On the evidence available, there is potential for summary boxes to improve outcomes for merchants in comparing prices and associated service elements for card-acquiring services. This is the case particularly if summary boxes are provided using bespoke information for merchants, as well as in generic format, and deployed in combination with other remedies to assist search and switch by merchants.

### Good outcomes for merchants

**2.19** Provision of summary boxes in both bespoke and generic form should enable merchants quickly and easily to understand key information about their card-acquiring services, including price and non-price factors. Summary boxes should help merchants to compare offerings between providers using consistent information and formatting. As such, if they request information or a quote from a provider, they can easily compare the response with information from other providers, including their existing provider.

### Questions for stakeholders on summary boxes

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

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

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

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

### Invitation to providers of card-acquiring services to submit specifications for summary boxes

**2.20** We will ensure we have relevant information on the operations and systems of providers of card-acquiring services and any changes to these needed to address the features of concern. To progress consideration of summary boxes as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should specify

necessary operational and systems changes. Please include indicative mock summary boxes with your proposal, both in bespoke and generic formats. Submissions may include proposals for viable additional or alternative measures to address the features of concern. Please supply supporting evidence of why they would be effective.

### Digital comparison tools (DCTs)

- 2.21** The development of DCTs could help merchants search and switch between card-acquiring services where they want to. 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.
- 2.22** As with summary boxes, and for the same reasons, to work effectively DCTs would need to cover non-price service elements as well as the prices of card-acquiring services (see paragraph 2.10).
- 2.23** We note that the CMA has defined DCTs as “digital intermediary services used by consumers to compare and potentially to switch or purchase products or services from a range of businesses”.<sup>10</sup> We find this definition helpful as we consider DCTs for card-acquiring services.
- 2.24** DCTs are well established in some markets, and have developed in some instances without regulation in response to consumer demand. In other instances, regulatory oversight was needed to ensure DCTs deliver good consumer outcomes. For example, in 2020 the FCA set out a supervisory strategy for price comparison websites.<sup>11</sup> The supervisory strategy covers drivers of harm identified by the FCA, and expectations of price comparison websites to give consumers appropriate information to allow them to make informed choices
- 2.25** In 2017 the CMA conducted a market study into DCTs<sup>12</sup> which noted, “They are mostly a force for good: they make it easier for people to shop around, and improve competition – which is a spur to lower prices, higher quality, innovation and efficiency.”
- 2.26** Take up of DCTs varies by sector, but a majority of UK consumers have used DCTs for some form of price comparison.<sup>13</sup> Some DCTs, particularly those operating across multiple sectors, are well recognised mass market brands.

10 CMA, *Digital comparison tools – market study: Final report*, September 2017: <https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf>

11 See FCA letter to price comparison website CEOs <https://www.fca.org.uk/publication/correspondence/portfolio-letter-price-comparison-webiste.pdf>

12 CMA, *Digital comparison tools – market study: Final report*, September 2017: <https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf>

13 Kantar, *Digital Comparison Tools: Consumer Research – Final report*, 2017: <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

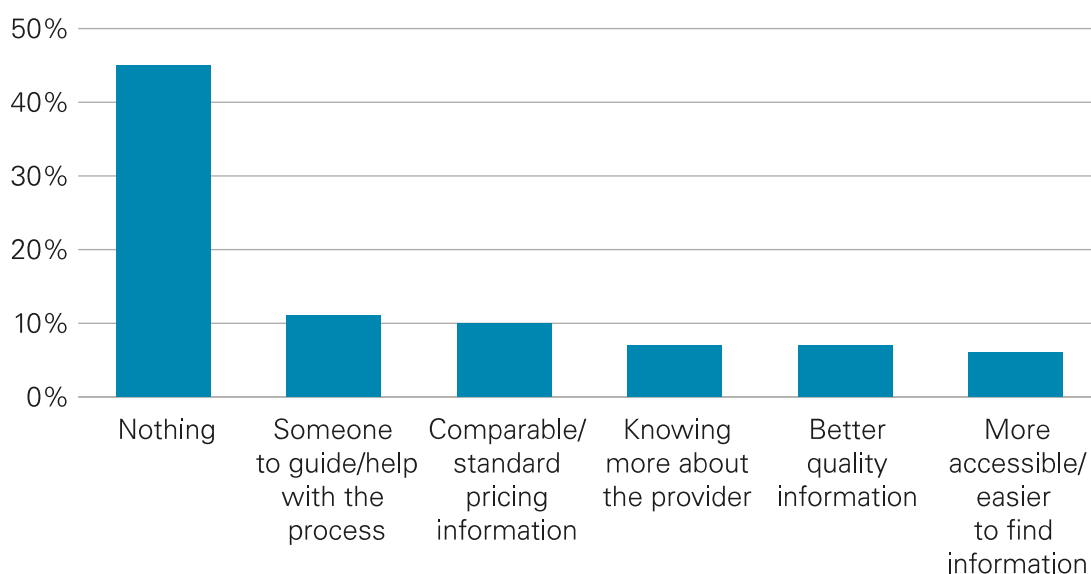
**2.27** Where DCTs work well, they help consumers and businesses to access information about the purchasing options available to them. Both groups can then assess these offers and act accordingly by purchasing goods or services that provide best value to them, sometimes involving switching between suppliers.

### DCTs in the card-acquiring market

**2.28** DCTs are not well established in the card-acquiring market. Some services are available, but these do not enable merchants to search for better deals in a way which fully ameliorates the features of concern we have identified. For example, websites which provide service information to merchants also give sales leads to individual providers of card-acquiring services, and so do not provide a comprehensive price and service comparison.<sup>14</sup>

**2.29** Our research showed that information of the type which could be made available by DCTs could make merchants more confident about switching. We asked merchants that switched their provider in the last two years what, if anything, would have made them feel more confident about deciding which provider to switch to – the results are in Figure 1.

**Figure 1 – What, if anything, would make small and medium-sized merchants feel more confident about deciding which provider to switch to? (n=181)**



Source: IFF Research, PSR Card-Acquiring Market Review: Merchant survey results, slide 30.

**2.30** 46% of participants said that there was nothing that would make them feel more confident about deciding which provider to switch to. The second most common response related to having better quality information. Around 23% of merchants stated that access to more comparable pricing information, knowing more about the

<sup>14</sup> Merchants identified these features of their search experiences in additional qualitative research undertaken by the PSR.

provider<sup>15</sup>, better quality or more accessible information would have made them feel more confident about deciding which provider to switch to.

**2.31** The card-acquiring market has some characteristics which make it challenging for DCTs to operate. Pricing structures vary significantly between providers of acquiring services. While this may present an opportunity for DCTs to provide new comparison services and tools, information is not easily obtainable by potential DCTs and this is likely to present a barrier.

**2.32** Nevertheless, DCTs could potentially provide a remedy to the difficulties we have identified for merchants wishing to search and compare options for card-acquiring services, and switch if they want to.

**2.33** In order for DCTs to develop in the card-acquiring market, some of the current barriers to DCT market entry would need to be addressed. Here we discuss the barriers and possible ways to tackle them.

### **Addressing barriers to DCT entry on the card-acquiring market**

**2.34** Currently, pricing information is not typically published by acquirers and ISOs. As we concluded in the market review, this makes it difficult for merchants to compare prices.<sup>16</sup> This may also constrain opportunities for DCTs in the sector.

**2.35** We are not currently considering any direct intervention on pricing structures (see paragraphs 2.7 and 2.8). However, some reforms to improve availability and accessibility of card-acquirer and ISO pricing information to third-party intermediaries may stimulate DCT entry and development in the card-acquiring market.

**2.36** This might involve:

- 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. This information could be used to determine the key characteristics of card payments to a merchant. These could include which brand and category of cards they process transactions for, types of transaction (such as card-present and card-not-present), and the frequency of each transaction type. With this analysis, it would be possible to use the merchant's personalised transaction data to calculate whether the merchant would be better off with a different provider.

<sup>15</sup> Responses were coded as 'reputation of the provider'.

<sup>16</sup> See Chapter 6 of the Final Report of the Market Review into Card-acquiring Services <https://www.psr.org.uk/media/p1tlg0iw/psr-card-acquiring-market-review-final-report-november-2021.pdf>

- 2.37** We will explore the potential for these and other initiatives to facilitate DCT entry to the card-acquiring market.

### **Merchant confidence**

- 2.38** To ensure good consumer and merchant outcomes, it is vital that potential users of DCTs can trust that they present accurate and impartial data to enable appropriate choices to be made.
- 2.39** In the card-acquiring market, merchants are more likely to engage with DCTs if they are confident that DCTs are providing high-quality information for comparison.
- 2.40** In other sectors, regulators have played a role to boost consumer confidence in DCTs. For example, Ofcom operates an accreditation scheme for price comparison calculators.<sup>17</sup> Under this scheme, Ofcom performs audits of price comparison methodologies and tools for price comparison services in the scheme. Those comparison services which meet Ofcom's standards are accredited.

### **Good merchant outcomes**

- 2.41** Taking account of our analysis, well-functioning DCTs in the market for card-acquiring services would likely have the following characteristics:
- Services provided by DCTs to merchants should be relevant, accurate, comprehensive and objective.
  - Merchants should have the opportunity to compare offerings based on their own service preferences and consumption data.
  - Merchants should be confident to use DCTs.

### **DCTs feasibility study**

- 2.42** We are considering commissioning a feasibility study to help us understand the potential role of DCTs for card-acquiring services. This could enable us to refine our analysis of barriers to development and take-up of DCTs, and hence also of effective and proportionate remedies to address these.
- 2.43** The feasibility study would be completed before we issue a provisional decision on remedies, and we would set out how it is factored into our analysis and any provisional decisions we take.

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<sup>17</sup> See <https://www.ofcom.org.uk/consultations-and-statements/category-2/price-calculator-accreditation>

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

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

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

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

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

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

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

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

## Invitation to providers of card-acquiring services to submit specifications for stimulation of DCTs

**2.44** To develop proposals for remedies, we will ensure we have relevant information on the operations and systems of providers of card-acquiring services and any changes to these needed to address the features of concern. To progress consideration of DCTs, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should address the need for comparable price and service data to be made available to DCTs so they can provide an accurate comparison service to merchants. Submissions should also specify necessary operational and systems changes to achieve this.

## Indefinite contracts for card-acquirer services

**2.45** In the Final Report, we explained that the card-acquiring market is characterised by “evergreen” contracts between providers of card-acquiring services and merchants. These either continue automatically until terminated by either party or automatically renew for successive fixed terms.

- 2.46** The indefinite duration of these contracts means there is no clear trigger point for merchants to think about searching for another provider and switching or renegotiating their current terms.
- 2.47** This explains, at least in part, why many merchants do not consider switching or searching for alternative providers.

## Remedies we considered and are not pursuing at this stage

### Fixed-term contracts

- 2.48** In the market review interim report (published in September 2020), we discussed imposition of fixed-term card-acquiring contracts. We said we were considering a remedy requiring all contracts for card-acquiring services to have an end date. This could have been targeted at merchants with turnover up to £50 million, or more granular targeting – for example, on merchants in that group with standard pricing contracts.<sup>18</sup>
- 2.49** Respondents to the interim report expressed concern that imposing fixed-term card-acquiring contracts would create a risk that merchants who do not take action before the end of a contract to procure a new contract would lose access to card-acquiring services.
- 2.50** We understand this concern, but we are also mindful of our finding that the indefinite duration of some contracts means there is no clear trigger for merchants to think about searching for another provider, or switching. In this first-stage consultation, we are therefore focussing on exploration of remedies to trigger merchant engagement.
- 2.51** Fixed-term contracts remain within the scope of our work, particularly if we consider other remedies may prove ineffective, or our monitoring of market outcomes shows this.

## Remedies we are considering

### Contract triggers

- 2.52** Following the findings of the market review, set out in the Final Report, search and switch activity by merchants could be improved if card-acquirers provide information to them at specified times to trigger or prompt engagement. This would also improve pricing outcomes for them.

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<sup>18</sup> See Chapter 7 of the Interim Report on the Market Review of Card-acquiring Services  
<https://www.psr.org.uk/media/ovrdtg2r/psr-card-acquiring-market-review-interim-report-september-2020.pdf>

**2.53** In other regulated markets, information is provided to consumers by service providers to prompt consumer engagement. For example:

- In energy markets, suppliers are required to inform customers that cheaper tariffs may be available to them. This requirement is included in the Code of Practice on Domestic Bills and Statements made under Condition 38(2) of the gas supply licence and Condition 2.19.2 of the gas supply licence.<sup>19</sup> Information is provided on every bill sent to a customer.
- Electronic communications and pay-TV providers are required to<sup>20</sup>:
  - alert their residential customers of upcoming contract endings between 10 and 40 days before the contract end date.<sup>21</sup> The alerts must include the contract end date and information on current prices and the best deals available
  - inform residential customers who are out of contract of the best tariffs available to them at least annually
  - provide business customers with best-tariff information in a form which is suitable for them
- These rules became effective in 2020, and Ofcom recently published a review of their effectiveness which identified positive increases in consumer engagement resulting from their introduction.<sup>22</sup>
- Customers of insurance products (for example, home insurance, car insurance) are prompted to renew or switch at the end of their contracts.

**2.54** In these examples, trigger information is designed to drive consumer engagement, and is often linked to “milestone” events – for example, contract end dates or ending of initial minimum terms.

**2.55** While card-acquirer contracts do not have end dates, they often have an initial minimum one-year term. Provision of information by acquirers to prompt merchant information as the end of their initial term approaches, and annually thereafter, could improve merchant engagement and lead to better pricing outcomes for them. For contracts with no initial minimum term, or for which the initial minimum term has passed, annual trigger messages would still apply.

**2.56** Improved merchant engagement is unlikely to mean annual search or switch for every merchant. However, it would give merchants opportunities to engage with the market based on up-to-date or recent information when it suits them. The remedy

19 See <https://www.uregni.gov.uk/files/uregni/media-files/2017-07-05%20FINAL%20domestic%20bills%20and%20statements%20CLEAN%20-%20Annex%203.pdf>

20 See [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0018/148140/statement-helping-consumers-get-better-deals.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0018/148140/statement-helping-consumers-get-better-deals.pdf)

21 For telecoms services, services are typically maintained after the end of a contract, but with changes to key terms – for example, notice periods and pricing.

22 See [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0025/228742/helping-customers-get-better-deals-2021.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0025/228742/helping-customers-get-better-deals-2021.pdf)

would be effective if sufficient numbers of merchants switch to improve outcomes across the market.

### Timing of trigger messages

- 2.57** The timing of trigger messages in relation to a contract end date or ending of an initial minimum term is important to their effectiveness. If prompts are received too early, they are less likely to encourage engagement, or if too late it may be difficult for merchants to engage in time to search their options and switch if they want to before their contract ends.
- 2.58** In the card-acquiring market there is no risk to continuity of supply arising from prompt information being received too close to minimum-term end dates because contracts do not expire after the initial term. This could mean that a merchant continues with a card-acquiring contract past the end of their initial term, which may not be the best arrangement for them.
- 2.59** On the other hand, prompting too early may reduce engagement as merchants are less likely to act on information which does not require urgent attention. Evidence from other markets and behavioural economics evidence suggests that consumers receiving prompts (in our case, merchants consuming card-acquiring services) are more likely to respond where attention is needed soon.<sup>23</sup>
- 2.60** We will consider further evidence on the timing of trigger messages in responses to this document, and the proposals for remedies specifications we receive from providers of card-acquiring services.

### Content of trigger messages

- 2.61** The content of trigger messages is important to their effectiveness in triggering engagement. They should contain the information which will help merchants decide whether they wish to review their options for card-acquiring services, how they can do this, and how they can switch if they want to.
- 2.62** Work by the FCA on current account switching<sup>24</sup> and home insurance<sup>25</sup> provides some helpful insight in this area. FCA analysis in these markets suggests individuals respond better to personalised information on the financial impact of switching, as well as non-price benefits. This analysis is helpful in designing trigger messages to small and medium-sized merchants purchasing card-acquiring services.

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23 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 – [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/27870/Automatically-renewable-contracts.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/27870/Automatically-renewable-contracts.pdf), page 21

24 See <https://www.fca.org.uk/publication/research/personal-business-current-account-prompt-pilot-findings.pdf>

25 See <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-12.pdf>

**2.63** Ofgem's consumer engagement trials<sup>26</sup> are also relevant. As a result of these trials, Ofgem made a number of recommendations for customer communications in the energy market. These included that they should be kept short and simple, action focussed, personalised, designed to remind customers and give them a deadline, designed to help customers plan, and be tested with a target audience.

**2.64** In Table 3 we set out some possible information items for inclusion in trigger messages. As with summary boxes and DCTs, and for the same reasons, to work effectively trigger information would need to cover non-price elements, as well as the prices of card-acquiring services (see paragraph 2.10).

**Table 3: Types of information for inclusion in trigger messages**

Possible information items	Why?
<b>Information on the purpose of the communication</b>	Recipients are more likely to engage with trigger messages which explain the reason for the contact
<b>Pricing information for the merchant, including prices per transaction, service consumption data, how much the merchant paid for their card-acquiring services in the previous 12 months, and how this has changed since the start of the contract</b>	Personalised information is more effective and useful to merchants than more general messages
<b>The amount the merchant would save by switching to the lowest-priced option</b>	Information specific to the merchant will have a greater impact than general messages. Information about financial savings is likely to provide a powerful trigger
<b>Information on non-price service elements</b>	There may be non-price benefits to switching – for example, quality of service and customer support
<b>Arrangements for POS terminal switching if the merchant opts to switch their card-acquiring service, including POS terminal lease minimum-term end dates if applicable</b>	To help merchants understand the process and costs of switching the POS terminals if and when they switch between acquiring services
<b>Information on how switching works and what merchants should do if they wish to switch</b>	Merchants may not know how to switch, or may have low confidence in the process
<b>A call to action</b>	A trigger to encourage merchants to consider their options

26 See [https://www.ofgem.gov.uk/sites/default/files/docs/2019/09/cross\\_trials\\_paper\\_report.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2019/09/cross_trials_paper_report.pdf)

## Method of delivering trigger messages

- 2.65** Evidence from other sectors suggests the delivery method of trigger messages can have a significant impact on the likelihood of the recipient taking action.
- 2.66** The FCA published research on prompts and triggers in the current account market that looked at the best way to communicate trigger messages to consumers who were paying overdraft charges to encourage them to move to a cheaper provider. The research found the most effective way to encourage a customer to do this was to provide information on the provider's website that the customer sees when they log into their account.<sup>27</sup>
- 2.67** This research also found the least effective method of encouraging engagement in relation to current accounts was prompting through telephone calls and text messaging. While the research found that such methods are an excellent way of communicating in emergency situations (such as when an unauthorised overdraft is breached or in cases of fraud), they did not work so well for more general messages.
- 2.68** Ofcom research is also relevant in considering the method of delivering trigger messages. In its work on end-of-contract notifications, Ofcom looked at the effectiveness of communication across letter, email and SMS. It found that visual presentation of information was helpful, and that information presented should be complete, precise, specific and jargon free.<sup>28</sup>
- 2.69** Trigger messages need to be targeted effectively. For card-acquiring services, this will require an approach to delivery to reflect merchant preference and evidence of merchant responsiveness. Messages should also be delivered using a method which will engender merchant trust and enable merchants to validate that the message is genuinely from their supplier.

## Good outcomes for merchants

- 2.70** Trigger messages should provide merchants with accurate and relevant information about their current service, and the benefits of switching. They should provide appropriate stimulus and a call to action for merchants to search and switch if this is appropriate for them. They should be provided at a time which is most likely to prompt merchant engagement, and in a way which is convenient to merchants, trusted by them, and effective for their engagement.

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27 See <https://www.fca.org.uk/publication/research/personal-business-current-account-prompt-pilot-findings.pdf>

28 See [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/117074/Qualitative-end-of-contract-notification-research-July-2018.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/117074/Qualitative-end-of-contract-notification-research-July-2018.pdf)

## Questions for stakeholders on contract trigger messages

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

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

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

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

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

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

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

## Invitation to providers of card-acquiring services to submit specifications for contract trigger messages

**2.71** To develop proposals for remedies, we will ensure we have relevant information on the operations and systems of providers of card-acquiring services and any changes to these which would be needed to address the features of concern. To progress consideration of contract trigger messages as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to

deliver this potential remedy. Submissions should specify necessary operational and systems changes. Submissions may include proposals for viable additional or alternative measures to address the features of concern. Please supply supporting evidence of why they would be effective.

## POS terminal lease contracts

**2.72** Point of Sale (POS) terminals are the devices used by merchants to capture card details from their customers when a transaction is made.

**2.73** In the final report, we identified that contracts for POS terminals are important because:

- merchants selling face to face need hardware (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<sup>29</sup>

**2.74** Therefore contracts for POS terminal leases affect the ability of merchants to search and switch between card-acquiring services. Merchants switching provider will generally need to terminate their contract for card-acquiring services and their contract for their POS terminal lease together. This may be difficult because, whereas the initial term for card-acquiring contracts is usually around 12 months, POS terminal lease contracts can be significantly longer (up to five years). Merchants that want to switch between card-acquiring services may therefore face termination fees for cancelling their existing POS terminal lease contract.

**2.75** Furthermore, once the initial terms of POS terminal lease contracts have ended, they can automatically renew for successive fixed terms of 12 or 18 months if the merchant does not renew or switch.

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<sup>29</sup> See Final Report Chapter 6 <https://www.psr.org.uk/media/p1tlg0iw/psr-card-acquiring-market-review-final-report-november-2021.pdf>

## Understanding the barriers to merchant switching

- 2.76** 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.
- 2.77** 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.
- 2.78** In considering ways to address these factors, we looked in two broad areas.
- 2.79** The first area is 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.
- 2.80** The second area is technical barriers to switching – for example, lack of interoperability of POS terminals with an alternative card-acquiring service. Here we are looking at potential options for merchants to switch between card-acquiring services without incurring undue cost or suffering inconvenience from having to also exchange their POS terminal. We are also considering whether alternative technology solutions affect the feature of concern, or if there is the prospect of this in the foreseeable future.
- 2.81** These two areas overlap, and so our work on potential concerns and remedies considers interactions between contractual and technical factors.

### Contractual barriers to POS terminal switching

- 2.82** Minimum-term contracts in the supply of goods or services are common in some markets. These can have benefits to the purchaser, including when linked to spreading payments for an expensive item over time. For example, hire purchase agreements allow costs of purchase to be spread, and this can make them more manageable and/or affordable for the purchaser. Similarly, equipment lease arrangements sometimes spread the recovery of costs over time, which can have advantages for the provider and their customers.
- 2.83** On the other hand, minimum-term contracts can have the effect of reducing competitive intensity in a market by discouraging or preventing switching.

- 2.84** In considering the impact of minimum-term contracts on consumers and markets, it is necessary to take account of both the costs and benefits.
- 2.85** We examined these points in relation to POS terminal lease contracts as they affect the supply of card-acquiring services. In the final report, we explained our finding that POS terminals and POS terminal lease contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services is a feature of concern. However, we also understand that current arrangements for POS terminal leases, including the method of equipment cost recovery, may have some benefits for merchants.
- 2.86** It may be necessary to address contractual barriers to switching directly – for example, by introducing a prohibition on contract roll-overs if they were found to be preventing merchants from switching between card-acquiring services. However, it is possible that the feature of concern arising from POS terminals and POS terminal lease contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services could be mitigated by addressing technical barriers to switching, and we wish to investigate this. If we find it is not possible to remedy the feature of concern by addressing technical barriers, we will consider taking action to address contractual barriers directly.
- 2.87** Therefore our focus at this stage is on addressing technical barriers to switching POS terminals which also affect the ability of merchants to switch between card-acquiring services.

### **Technical barriers to POS terminal switching**

- 2.88** Current industry practice makes terminal porting difficult for a number of technical reasons, for example:
- Physical reconfiguration of terminals is required for them to work with a new card-acquiring service.
  - Terminals require certification by each card-acquirer for each payment scheme they operate. Also, use of a terminal with a new card-acquirer must be covered by an existing or new certification.
  - The terminal manager<sup>30</sup> that operates the terminal management system may not support terminals in the new card-acquirer estate. As such, switching may require a change of terminal manager for the same POS terminal. Changing terminal manager requires unlocking and resetting of cryptographic keys.
- 2.89** We discuss and consider how these technical factors may be addressed to make switching easier below.

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<sup>30</sup> The terminal manager is the operator of the terminal management system related to the terminal in question.

## Addressing technical barriers to POS terminal switching

**2.90** To meet our objectives to promote the interests of merchants and promote competition in the card-acquiring market, we must address the feature of concern arising from POS terminals and POS terminal lease contracts that prevent or discourage merchants from searching and switching provider of card-acquiring services.

**2.91** We will investigate whether the feature of harm we identified can be remedied by addressing technical barriers to POS terminal switching. If we find that it is not possible to remedy the feature of concern in this way, we will consider taking action to address contractual barriers directly.

**2.92** Technical solutions which could fully or partially address the feature of concern are:

- replacement of terminals by POS terminal lease providers to support merchants switching between card-acquiring services
- portability<sup>31</sup> of POS terminals when a merchant switches between card-acquiring services

**2.93** POS terminal portability could facilitate easier switching between card-acquiring services for merchants, and potentially also deliver some positive externalities. The benefits would be likely to include:

- elimination of POS terminal termination fees paid by merchants when they switch between card-acquiring services, and this also requires changing POS terminals
- greater switching between card-acquiring services as this would no longer necessarily require changing POS terminals
- 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
- reducing environmental waste by enabling POS terminals to port and work between different providers of card-acquiring services, rather than the need for replacement or reconditioning

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

**2.94** We will continue to investigate whether technical solutions are available to facilitate POS terminal switching, and hence mitigate the feature of concern arising from POS terminal leases. We will focus on POS terminal portability, and our work will include further consideration of common interoperability standards to support this. As part of this investigation, we will consider:

- the technology landscape and the impact of emerging payment solutions on this feature of concern
- trends in customer and merchant behaviour when they make and receive card payments to investigate any impacts this will have on the feature of concern
- whether there would be commercial consequences of introducing POS terminal portability and the potential impacts of these (for example, where commission is earned by POS terminal lease providers from providers of card-acquiring services, there may be impacts on the business model for POS terminal leases which would result from porting POS terminals between card-acquiring services)

### Good outcomes for merchants

**2.95** Merchants should be able to switch between acquiring services without facing barriers arising from their POS terminal leases.

### Questions on POS terminals and POS terminal lease contracts

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

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

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

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

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

### **Invitation to submit specifications for solutions to prevent POS terminal lease contracts raising barriers to switching between card acquirers**

- 2.96** We want to explore possibilities for solutions to prevent POS terminal lease contracts raising barriers to switching between card acquirers. We are inviting providers of card-acquiring services and providers of POS terminal leases to submit specified solutions for this. Submissions should include an assessment of solutions to address technical barriers to switching, including POS terminal portability, and explain any operational and system requirements required to deliver them, with costing information. Submissions may include proposals for viable additional or alternative measures to address the features of concern. These should be accompanied by supporting evidence of why they would be effective.

## **Monitoring outcomes and the effectiveness of remedies in the card-acquiring market**

- 2.97** The PSR will establish a framework to monitor merchant and consumer outcomes in the card-acquiring market, and to assess the effectiveness of remedies put in place to address the features of concern identified in the market review. This will enable us to make adjustments to remedies, or remove them if they are no longer needed.
- 2.98** We will develop the framework through consultation with stakeholders, including providers of card-acquiring services, and merchants and merchant representatives.
- 2.99** We will build a methodology to identify a baseline of evidence from which we can track targeted metrics to measure whether and how merchants are engaging with remedies, and the outcomes resulting from this. This will also take account of the CBA, and measure outcomes against the benefits assessment it will contain.
- 2.100** We will set out our proposals for monitoring when we consult on our provisional decision on remedies, and would be grateful for input from stakeholder in response to question 23. We will take account of all responses in developing our proposals.
- 2.101** The framework to monitor outcomes will be separate to our monitoring of compliance with any requirements put in place.

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

# 3 Consultation questions

## Questions for consultation

We would be grateful for responses from all interested parties to the questions we asked in this consultation document, repeated below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We are also consulting on our approach to the CBA for remedies (see the annex). We would be grateful to receive responses from all stakeholders on these questions.

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

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

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

## Invitation to providers of card-acquiring services and POS terminal lease providers to submit specifications for remedies to address features of concern in the card-acquiring market

In this document we have explained our approach to remedies to address the harms we identified in our review of the card-acquiring market. We set out the outcomes which should be achieved through the implementation of remedies. We also discuss options for remedies, giving a view on some which we consider to be appropriate to address the features of concern.

To develop proposals for remedies, we will ensure we have relevant information on the operations and systems of providers of card-acquiring services and (for potential remedies affecting POS terminals) POS terminal lease providers, and any changes to these which would be needed to address the features of concern. We are inviting providers of card-acquiring services and POS terminal lease providers to submit proposed specifications for the remedies we have identified, and alternative suggestions if they wish to propose these. Proposals should be accompanied by supporting evidence as to why they would be effective.

Please clearly identify any confidential information contained in industry proposals.

### Invitation to providers of card-acquiring services to submit specifications for summary boxes

To progress consideration of summary boxes as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should specify necessary operational and systems changes. Please include indicative mock summary boxes with your proposal, both in bespoke and generic formats. Submissions may include proposals for viable additional or alternative measures to address the features of concern. Please supply supporting evidence of why they would be effective.

### Invitation to providers of card-acquiring services to submit specifications for stimulation of DCTs

To progress consideration of DCTs, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should address the need for comparable price and service data to be made available to DCTs so they can provide an accurate comparison service to merchants. Submissions should also specify necessary operational and systems changes to achieve this.

## Invitation to providers of card-acquiring services to submit specifications for contract trigger messages

To progress consideration of contract trigger messages as a remedy to the feature of concern, we are inviting providers of card-acquiring services to submit detailed specifications to deliver this potential remedy. Submissions should specify necessary operational and systems changes. Submissions may include proposals for viable additional or alternative measures to address the features of concern. These should be accompanied by supporting evidence of why they would be effective.

## Invitation to providers of card-acquiring services and providers of POS terminal leases to submit specifications for solutions to prevent POS terminal lease contracts raising barriers to switching between card acquirers

We are inviting providers of card-acquiring services and providers of POS terminal leases to submit specified solutions for this. Submissions should include an assessment of solutions to address technical barriers to switching, including POS terminal portability, and explain any operational and system requirements required to deliver them, with costing information. Submissions may include proposals for viable additional or alternative measures to address the features of concern. These should be accompanied by supporting evidence of why they would be effective.

# Annex

## Approach to the cost-benefit analysis for remedies

### Introduction

- 1.1** To ensure any remedies we implement will be appropriate to address the features of concern identified in the card-acquiring market review, we will conduct a cost-benefit analysis (CBA).
- 1.2** It is only where the benefits of a remedy, or remedies taken together, outweigh the costs that a regulator should pursue them. Therefore, the CBA will be an essential part of our analysis to assess the expected impacts of remedies before they are in place.
- 1.3** We will assess the estimated costs and benefits of remedies we propose, using quantified data where it is available to us, and other relevant evidence.

### Evidence and evidence sources

- 1.4** Sources of evidence for the CBA will include:
- The findings of our review of the card-acquiring market<sup>32</sup>
  - evidence from all stakeholders, including that submitted to us in response to consultations on remedies in the card-acquiring market
  - evidence from industry, including:
    - in response to Requests for Information (RFIs)
    - proposed remedies specifications submitted by industry
  - other relevant evidence – for example, in relation to similar remedies in other regulated markets

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32 Our findings were published in the Final Report <https://www.psr.org.uk/publications/market-reviews/mr18-1-8-card-acquiring-report-final/>

## CBA consultation

- 1.5** In this annex, we invite stakeholder views on our proposed approach to the CBA described here.
- 1.6** We expect to publish a draft of the CBA with our provisional decision on remedies. The draft will give stakeholders an opportunity to comment on all the evidence, and our methodology and analysis to assess costs and benefits.
- 1.7** The final completed CBA, taking account of all evidence including stakeholder submissions, will be published with our final remedies notice.

## CBA methodology

- 1.8** At this stage we are seeking views on remedies options, and so our work on costs and benefits is at a preliminary stage. However, based on evidence we have and analysis explained in the consultation document, we have identified potential remedies to address the features of concern. We are developing the CBA so we can assess these remedies, or others which may be identified through consultation and analysis.
- 1.9** In the CBA, we will seek to provide estimated costs and benefits for the remedies we propose using evidence from the sources set out above. This will include direct costs and benefits to affected stakeholders (primarily merchants and providers), and any indirect costs and benefits we identify. Using this information, we will seek to derive a net cost/benefit for each remedy and for remedies taken together.

## Potential benefits and costs we will examine

- 1.10** By increasing merchants' ability and willingness to switch or negotiate better deals, and by incentivising providers to offer better deals, our proposed remedy options could result in benefits including reduced prices and improvements to other service elements for card-acquiring services. We expect these benefits would be significant.
- 1.11** We are considering different categories of costs which could result from implementation of the remedies. These are likely to include:
- Summary information boxes and trigger messages may include one-off costs of changing IT systems to extract information. There may be ongoing costs relating to the distribution of this information.

- With regard to stimulating DCTs, we note that acquirers may already provide transaction data to some merchants.<sup>33</sup> As such, the incremental costs arising from a requirement to provide this data could be small.
- Introduction of POS terminal portability may result in costs arising from the development of common industry technical standards. Some provider business models (for example, ISOs, POS terminal lease providers) could also be impacted by increased portability or mandating a maximum POS terminal contract length.

## Package of remedies

**1.12** We will consider each remedy option independently, and together in combinations or as a package. For example:

- It is possible that overall costs would be lower for a package of remedies than the sum of their parts. This is 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.

**1.13** In the CBA, we will capture these combinatorial effects and ensure we do not double-count benefits or costs between potential remedies where they would be implemented together.

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

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

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

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<sup>33</sup> For instance, under their PSRs 2017 obligations, so the incremental costs arising from a requirement to provide this data could be small.

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