

# Payment Surcharges: Economics, Regulation and Enforcement

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Photo: mediaphotos – Getty Images

## Abstract

The Reserve Bank's new rules on surcharging, which are enforced by the Australian Competition and Consumer Commission (ACCC), allow businesses to recover the cost of accepting different payment methods but prevent them from surcharging excessively. This article discusses the economic reasons for allowing businesses to surcharge, how the rules work to prevent excessive surcharging, the effect of these rules since their introduction, and how the ACCC enforces them.

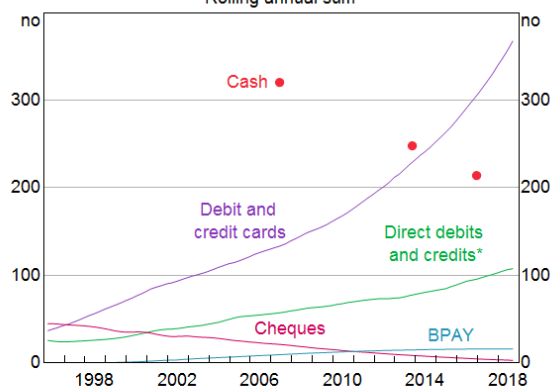
## Introduction

Over the past few decades Australian consumers have increasingly been making payments electronically, particularly by using debit and credit cards (Graph 1). This reflects both changing consumer preferences and increased acceptance of electronic payments by businesses. While many businesses find electronic payments to be more convenient and often cheaper to accept than 'paper-based' payment methods (cash and cheques), they still incur costs when taking payments electronically. These costs can be quite high for some electronic payment methods – such as particular types of credit card – and often increase with the value of the payment.

**Graph 1**

### Transactions per Capita

Rolling annual sum



\* Adjusted for a reporting change in May 2018, which decreased the number of direct credit and direct debit payments  
Sources: ABS; AusPayNet; BPAY; Colmar Brunton; Ipsos; RBA; Roy Morgan Research

To recover these costs, a merchant may apply an additional fee, or surcharge, for accepting particular payment methods. The Reserve Bank first introduced rules in relation to surcharging in the early 2000s to support competition and efficiency in the payments system. The right to apply a surcharge applies not just to electronic payment methods but extends to all payment methods – for example, there is no rule saying that cash and cheques cannot be surcharged. However, a merchant cannot surcharge all payment methods – it must offer at least one non-surcharged method of payment. Following a comprehensive review of its card payments regulation in 2015–16, the Reserve Bank introduced new rules on surcharging card payments. These rules preserve the right of merchants to impose a surcharge on card payments, but limit the amount of any surcharge to what it costs the merchant to accept a card payment. These rules are supported by powers given to the ACCC to enforce a ban on ‘excessive’ surcharging.

This article discusses the economic reasons for allowing businesses to surcharge.<sup>[1]</sup> We present evidence that the cost of accepting card payments varies significantly depending on what type of card a customer uses – most notably, debit cards are usually cheaper for a business to accept than credit cards (particularly premium cards that offer rewards or other benefits to the cardholder). Payment costs can also vary significantly across different businesses. We also discuss the ways in which the new surcharging rules are designed to prevent businesses surcharging excessively and the effect of these rules since they were introduced around two years ago. Finally, the article discusses the ACCC’s approach to enforcing the ban on excessive surcharging and some of the lessons that have been learnt to date.

## What Is the Economic Role of Payment Surcharges?

Businesses may choose to charge customers an additional fee, or surcharge, to recover their cost of accepting electronic payments. Customers are typically offered a number of options to make a payment, which may include cash, credit and debit

cards, and other electronic payment methods.<sup>[2]</sup> When a business accepts an electronic payment, they are typically charged fees by their bank for processing that payment (which are known as ‘merchant fees’).<sup>[3]</sup> These fees can be quite high and typically increase with the value of the transaction.<sup>[4]</sup> Merchant fees are also higher for some types of electronic payments than they are for other types. For example, they are typically higher for credit cards than for debit cards.

There are a number of card systems operating in Australia, and data on average merchant fees show that there are significant differences in the costs to merchants of accepting payments through these different systems (Graph 2). For example, payments made using the eftpos debit card network cost an average of 0.2 per cent of the payment value in 2017/18, whereas for American Express cards the average fee was 1.4 per cent. The cost of accepting card payments can also vary significantly across different businesses. Data collected by the Reserve Bank on the cost of card payments in 2016/17 for around 680,000 merchants of different sizes show that there is a wide range in the cost of payments (Graph 3).<sup>[5]</sup> It is apparent from the darker areas in Graph 3 that businesses with larger annual card transaction values tend to pay less than smaller businesses for accepting card payments. Notably, many smaller merchants have average payments costs well in excess of 1.5 per cent of their transaction values.

The size of a business is not the only factor that influences their card acceptance costs. Another is the mix of cards that customers choose to pay with. For example, some merchants – even large ones, such as hotels and airlines – face higher card acceptance costs because they receive a larger share of payments using certain types of credit cards, such as corporate cards and ‘premium’ consumer cards, which have higher merchant fees (see below). The data on merchant acceptance costs show that around 1 in 10 businesses with annual card transactions greater than \$25 million had average card acceptance costs greater than 1 per cent.

The prices that merchants charge for their goods and services incorporate the general costs of

running a business, such as electricity and rent, as well as the cost of payments. However, an important difference between many business costs and payment acceptance costs is that it is the *customer* that chooses how they will make the payment, which then determines how much the transaction costs the merchant. If a business chooses to apply a surcharge to recover the cost of accepting more expensive payment methods, it may encourage customers to make the payment using a cheaper option. For example, if credit cards are surcharged, the customer might instead switch to using their debit card. In addition, the possibility that a consumer may choose to use a lower-cost

card when presented with a surcharge helps put competitive pressure on card schemes to lower their pricing policies, indirectly lowering merchants' payments costs. By helping to keep the merchant's costs down, the right to apply a surcharge on more expensive payment methods means that the business can offer a lower total price for goods and services to *all* of their customers.

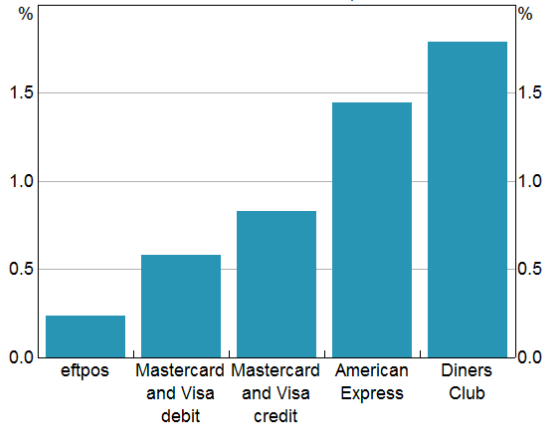
One reason that some types of card are more expensive for businesses to accept is that the card provides rewards points or other benefits for the cardholder. The pricing policies of the card schemes are such that rewards cards tend to be more expensive for businesses to accept than standard cards; the business accepting the card effectively contributes to the cardholder benefits via higher merchant fees. An implication is that if merchants incorporate payment costs into the price of goods and services for *all* customers, users of higher-cost payment methods – typically higher-income households – are effectively receiving a subsidy from people who pay in ways that are less expensive for the merchant to accept. According to the Reserve Bank's 2016 Consumer Payments Survey, higher-income households are far more likely to hold premium credit cards (e.g. 'platinum' or 'super premium' cards), which typically have more generous rewards than 'standard' or low-rate cards, than lower-income households (Graph 4).<sup>[6]</sup>

While businesses have a right to apply a surcharge, many of them choose not to and surcharges are paid on only a small share of consumer payments.

**Graph 2**

**Total Merchant Fees**

Per cent of transaction values acquired, 2017/18

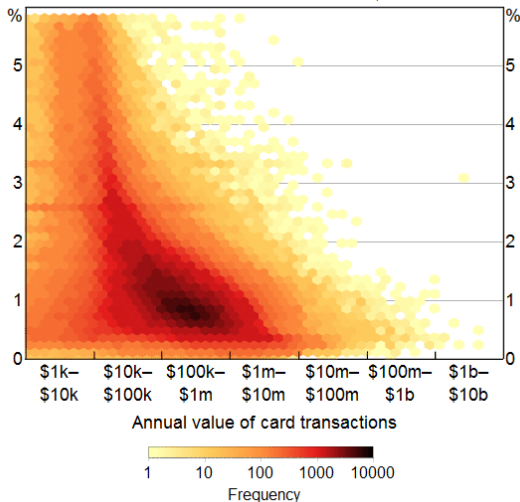


Source: RBA

**Graph 3**

**Cost of Acceptance by Merchant Size**

Per cent of value of card transactions, 2016/17

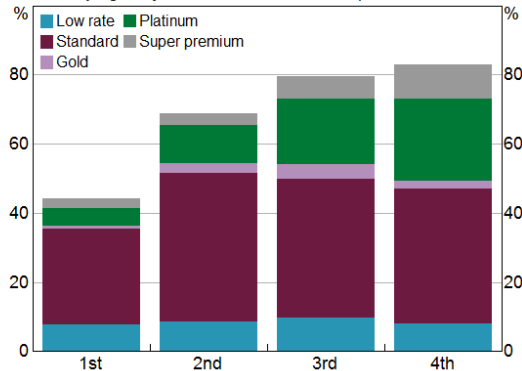


Source: RBA

**Graph 4**

**Type of Credit Card Held\***

By age-adjusted household income quartile, 2016



\* Excludes card products not identified by survey respondents  
Sources: Ipsos; RBA

The Bank’s Consumer Payments Survey showed that consumers paid a surcharge on only around 3½ per cent of all card payments in 2016 (or less than 2 per cent of all payments). The survey does not allow us to determine whether the relatively low frequency of surcharges was because many merchants did not surcharge for card payments, or whether the consumer switched to using a non-surcharged means of payment when confronted with a surcharge. However, the survey did show that surcharges were paid more often on payments made with cards that tend to be more expensive for merchants to accept – for example, surcharges were paid more often on credit card payments (4.7 per cent of payments) than on debit card payments (2½ per cent), and people who held rewards cards were more likely to have paid a surcharge than people who did not hold a rewards card.<sup>[7]</sup>

### Why a New Regulatory Framework?

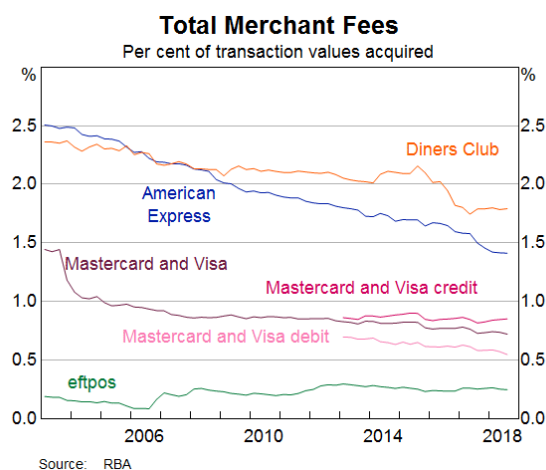
The Reserve Bank Payments System Board has responsibility for stability, efficiency and competition in the payments system. In the early 2000s, the Payments System Board decided that the Bank should introduce regulation to address several aspects of card scheme rules that it considered hindered competition and efficiency in the payments system. One such rule was the ‘no-surcharge’ rule, which had prevented merchants from passing on the costs of accepting cards to customers. A regulation introduced in 2003 required Mastercard and Visa to remove their no-surcharge rules so that merchants could, if they chose, surcharge customers for Mastercard and Visa credit card payments. These requirements were later extended to the Mastercard and Visa debit card schemes, and American Express and Diners Club voluntarily agreed to remove their no-surcharge rules around the same time. Following these reforms, merchants started to exercise their right to surcharge more expensive payment methods, which resulted in the costs of different payment methods becoming more visible to consumers and encouraged them to use lower-cost payment methods. This contributed to the efficiency of the Australian Payments System. The right to surcharge also contributed to competition in the payments

system, placing downward pressure on the costs of card acceptance. For example, the removal of the no-surcharge rule in the American Express system is likely to have contributed to the decline of merchant service fees for that system (Graph 5).

While the removal of the no-surcharge rules contributed to improved competitive dynamics and price signals in the payments system, over time, it became apparent that some merchants were surcharging excessively – that is, levying a surcharge in excess of what it cost them to accept a particular payment method.<sup>[8]</sup> Concerns about the practice of ‘blending’ surcharges for higher- and lower-cost card schemes also emerged. These practices were not only detrimental to consumers but also distorted the price signals that surcharges were meant to provide. Reflecting these concerns, the Reserve Bank modified its surcharging rules in 2013 to allow card schemes to limit surcharges to the ‘reasonable’ cost of card acceptance. This was accompanied by guidance to assist schemes, participants and merchants to determine the acceptance costs that might be considered ‘reasonable’.

Despite these changes, there were lingering concerns about excessive surcharging in some industries. The airline industry was a prominent example, where the presence of fixed-dollar surcharges represented a very high surcharge, in percentage terms, for low-cost fares. Some stakeholders also noted that higher surcharges

**Graph 5**



were more common in online transactions where cash payments are generally not possible.

These concerns were considered in the 2014 Financial System Inquiry (FSI), which received a large number of submissions on surcharging. The inquiry supported surcharging as a way to improve the efficiency of the payments system. However, it suggested that the Bank clarify the definition of 'reasonable' costs of acceptance in its surcharging standard to make it easier for businesses to calculate allowable surcharges.

## The New Regulatory Framework

The Reserve Bank reviewed the surcharging framework as part of a comprehensive review of its card payments regulation in 2015–16. This occurred at the same time as legislation to ban excessive surcharges was being developed, consistent with another recommendation of the FSI. The outcome was that the Bank introduced new rules in 2016 to replace the existing surcharging rules (or standards).<sup>[9]</sup> The new standard preserves the right of merchants to impose a surcharge on card payments, but limits the amount of any surcharge to what it costs the merchant to accept a card payment. A narrower and more precise definition of permitted card acceptance costs was also introduced, along with a requirement for banks and other acquirers and payment facilitators to provide merchants with an annual statement that clearly sets out the average cost of acceptance for each of the card payment systems covered by the new rules.<sup>[10]</sup> Large merchants were required to comply with the new rules from September 2016 while all other merchants were required to comply from September 2017.<sup>[11]</sup> This reform was supported by powers given to the ACCC to investigate and enforce cases of possible excessive surcharging.

Merchants have generally responded appropriately to the new framework coming into effect. Most notably, the airline industry moved from fixed-fee surcharges (see above) to a percentage-based surcharge with a fee cap. Prior to the reform, a \$100 domestic flight would have attracted a surcharge of up to \$8.50 for debit and credit cards alike. Following the reform, the same flight would attract a maximum surcharge of \$1.30 for credit

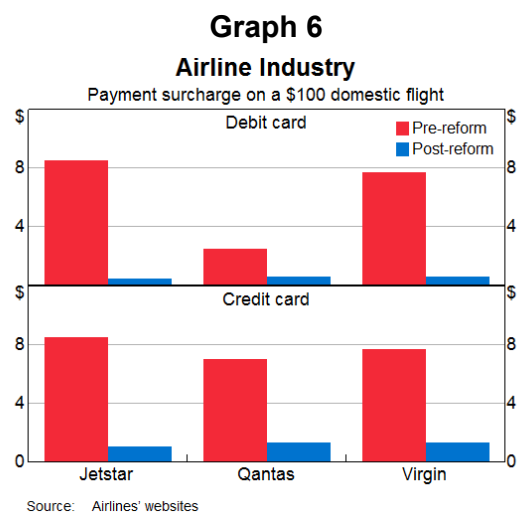
cards and \$0.60 for debit cards (calculated as a percentage of the cost of the airfare) (Graph 6).

Additionally, the reforms have resulted in merchants being provided with the information required to set their surcharges at appropriate levels and to defend themselves against claims of excessive surcharging. The latter is especially important for merchants who may face a relatively high cost of acceptance, perhaps because of their size or the industry they are in (see above). The increased transparency around permitted surcharges is also important in the context of the ACCC's powers to investigate and enforce the ban on excessive surcharging.

## Enforcement of the Framework

The ACCC is responsible for enforcing the law relating to excessive payment surcharges, as set out in the *Competition and Consumer Act 2010 (CCA)*. The CCA operates in conjunction with the Reserve Bank's new rules on surcharging. The provisions commenced application to large merchants on 1 September 2016, and to all merchants on 1 September 2017.

As part of amendments to the CCA, the ACCC has the power to issue Surcharge Information Notices to assist it to enforce the law relating to excessive payment surcharges. These notices require a person who charges or processes a payment surcharge to provide specified information or documents, such as evidence of the business's costs of processing a payment, in comparison to the surcharges it is applying, in order to determine whether or not the



### Box A: Setting a Permitted Surcharge

For most merchants, the annual statement they receive from their acquirer will include all costs related to accepting card payments, such as merchant service fees, terminal fees and any other processing fees. Merchants may apply a surcharge up to the average percentage cost of acceptance in their annual statement on payments made with that particular card type. Alternatively, merchants may apply a common surcharge to a group of card types, but this must be no greater than the average cost of acceptance of the lowest cost system within the group.

Table A1 shows a cost of acceptance table for a hypothetical merchant as it might appear in their annual merchant statement. This merchant could take a variety of approaches when setting a payment surcharge, including:

- A surcharge on each card type based on the average cost of acceptance of each card type. For eftpos cards, a permitted surcharge would be no greater than 0.22 per cent, while for Mastercard debit cards, a permitted surcharge would be no greater than 0.80 per cent, and so on.
- No surcharge on eftpos cards, a common surcharge on Mastercard and Visa debit cards no greater than 0.75 per cent, and a common surcharge on Mastercard and Visa credit cards no greater than 1.07 per cent.
- No surcharge on eftpos cards, and a common surcharge on all Mastercard and Visa cards no greater than 0.75 per cent.

Calculating an average cost of acceptance across card types is not permitted. For example, if the merchant applied an average surcharge on all Mastercard and Visa cards of 0.97 per cent, it would be surcharging excessively for both Mastercard and Visa debit cards.<sup>[12]</sup> Certain other costs may also be included when paid to a third party for services related to accepting particular types of cards.<sup>[13]</sup>

**Table A1: Annual Merchant Statement**

12-month cost of acceptance

Card type	Net sales (\$)	Net fees (\$) (GST inclusive)	Average cost (%) Net fees/Net sales
eftpos	846,000	1,900	0.22
Mastercard credit	709,000	7,600	1.07
Mastercard debit/pre-paid	538,000	4,300	0.80
Visa credit	1,210,000	13,600	1.12
Visa debit/pre-paid	697,000	5,200	0.75

Source: RBA

surcharges exceed the permitted level. To date, the ACCC has not needed to invoke this power.

The ACCC may issue an infringement notice to the business if it has reasonable grounds to believe that a business has charged an excessive payment surcharge. This may result in a penalty being applied. Each infringement notice relates to one alleged contravention of the CCA, and payment of an infringement notice penalty is not an admission of a contravention. The ACCC can also take court

action against businesses, seeking pecuniary penalties.<sup>[14]</sup> The ACCC may also seek redress on behalf of a group of consumers who have been charged an excessive surcharge, as well as seek injunctions and various non-punitive orders (including community service and probation orders). In addition to ACCC enforcement action, an individual who suffers loss or damage due to a breach of the law can bring an action seeking damages. The formal enforcement outcomes

obtained by the ACCC to date are outlined in 'Box B: Formal Enforcement Action'.

### Merchants and commencement of the law

In the lead-up to the law applying to large merchants, the ACCC liaised and engaged with a number of large merchants (including the major airlines and ticketing companies) and industry representatives (travel industry and hotel industry). The focus of this engagement was to provide a direct forum in which the ACCC and large merchants could discuss the obligations of businesses under the new law, and to articulate the ACCC's role and its proposed approach to enforcement. It provided those large merchants with the opportunity to present their proposed approaches to ensure compliance and to obtain a clear understanding of the ACCC's objectives.

The ACCC made it clear that if businesses chose to surcharge they needed to ensure their surcharges were compliant. If a business was unsure of its costs of acceptance, it was advised to either cease, or not commence, surcharging to avoid non-compliance with the law. The ACCC also published online guidance material for businesses and consumers, to provide further information on the ACCC's enforcement role, what businesses needed to do in order to comply, and how consumers could make complaints if they believed a business had charged a payment surcharge that was excessive. The guidance material also included a link to the Reserve Bank's website.

Ahead of the law commencing for smaller businesses in September 2017, the ACCC focused on education and awareness for these businesses. The ACCC wanted to ensure that small businesses were afforded sufficient time to understand their obligations under the new law and to take relevant measures to ensure they were compliant. During the period when the excessive payment surcharge provisions were in effect for large businesses only, the ACCC nevertheless regularly received complaints about the conduct of small businesses. Accordingly, from about June 2017, the ACCC commenced sending out letters to small businesses that had been the subject of complaints, to inform those businesses that the application of the law to

those businesses was imminent and urging them to take steps to ensure they were compliant in time.

The ACCC also published a short two-page fact sheet in June 2017, prepared with input from the main acquirers, to inform small businesses about the new law. The fact sheet set out the role of the ACCC and the obligations the new law would impose on businesses that chose to surcharge.<sup>[15]</sup> It also directed businesses to further avenues for obtaining information and assistance. The fact sheet was disseminated by a number of acquirers when they were providing their clients with their merchant statements, as required by the Reserve Bank's new rules.

### Public and media engagement

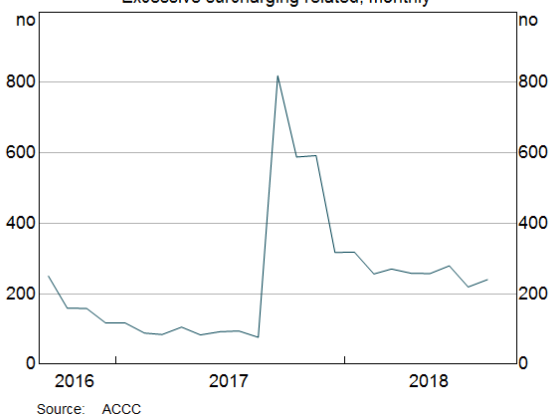
The ACCC has received a large number of contacts regarding excessive surcharging since the commencement of the new law (Graph 7). It should be noted that these data do not solely represent complaints, but also include enquiries by businesses about their obligations and enquiries by consumers regarding the provisions generally, how they can assess whether a surcharge is excessive, and their rights if they believe they have been charged an excessive surcharge.

The ACCC issued several media releases around key milestones, including when the Reserve Bank first released the new surcharging rules and when the rules came into effect (first for large merchants and then for all merchants). The ACCC has also issued media releases to publicise formal enforcement

**Graph 7**

#### ACCC Contacts

Excessive surcharging related, monthly



Source: ACCC

**Table 1: Surcharging Contacts to the ACCC<sup>(a)</sup>**

September 2016 to August 2018

	Industry	Number	Per cent
Cafes, restaurants and takeaway food		1,591	36.9
Retail trade		347	8.0
Personal and other services		337	7.8
Supermarkets and other food retailing		243	5.6
Administrative services		210	4.9
Hotels and other accommodation		161	3.7
Financial services		138	3.2
Air travel		107	2.5
Property and real estate		90	2.1

(a) Industries with a share greater than 2 per cent; these data include all contacts to the ACCC related to excessive surcharging where the trader was identified, including complaints, enquiries and requests

Source: ACCC

outcomes. These media releases were associated with peaks in engagement with the ACCC web page, by consumers and businesses (Graph 8). In conjunction with the web pages, the ACCC utilised the Facebook and Twitter social media platforms to publicise significant events such as the publication of the fact sheet, and the commencement of application of the new provisions to small businesses. This extended the reach of the ACCC’s messages considerably and generated more traffic for the web pages.

**Compliance activity**

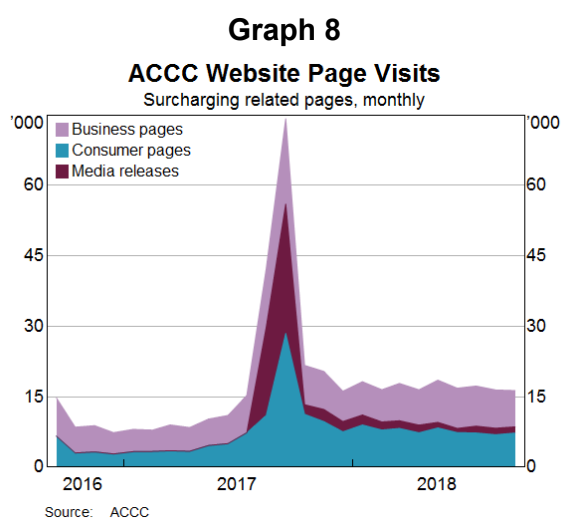
The ACCC has been generally pleased with the level of compliance, particularly by large merchants. However, the ACCC continues to receive reports of

smaller businesses that are alleged to be imposing excessive surcharges.

A number of small businesses – mainly cafes, restaurants, takeaway outlets and convenience stores – continue to impose fixed-fee surcharges (such as 50 cents per transaction under a certain limit, say \$10). Such surcharges may be problematic when the transaction is for a smaller amount, since it equates to a higher percentage surcharge. Over 35 per cent of contacts to the ACCC have been about cafes, restaurants and takeaway outlets (Table 1).

The ACCC has sent out over 750 warning letters to small businesses, urging them to review their surcharges to ensure they are compliant. A number of the small businesses contacted by the ACCC advised they had taken immediate steps to change their surcharging practices. In the main, in most instances where surcharges were excessive, it was only to a small monetary degree and, in some cases, it was as a result of an incorrect or incomplete understanding about the business’s obligations.

As at the end of October 2018, the ACCC has conducted more than 60 investigations into businesses alleged to have imposed excessive surcharges. Such investigations involved corresponding and engaging with the business, and seeking comprehensive cost of acceptance information and explanations of how the business set its surcharge(s). In the majority of these matters,





the investigation identified that the business had not breached the CCA. In other matters, particularly if there was a minor technical breach, the businesses took immediate steps to alter their

surcharge practices. Some businesses also took remedial action and refunded affected customers.

### Box B: Formal Enforcement Action

The ACCC has taken formal enforcement action against five businesses since the excessive surcharging provisions commenced.

#### Infringement notices

Red Balloon<sup>[16]</sup> – an online trader that sells ‘experiences’ such as skydiving jumps, wine tours and cooking classes – paid penalties for four infringement notices in November 2017. The ACCC alleged that Red Balloon imposed excessive payment surcharges of between 1.5 and 1.95 per cent across four payment schemes (Mastercard credit, Visa credit, Visa debit and Mastercard debit) in the period from September 2016 to at least June 2017, when its actual costs of acceptance ranged from 0.85 per cent to 0.92 per cent.

In July 2018, Cruisin Motorhomes<sup>[17]</sup> – a campervan and motorhome rental business – paid a penalty after being issued one infringement notice for imposing excessive surcharges on Mastercard debit payments. The ACCC alleged that Cruisin Motorhomes charged Visa and Mastercard customers a 2 per cent surcharge, despite the cost of processing the payment ranging from 0.41 to 1.48 per cent.

Fitness First<sup>[18]</sup> – a national fitness club operator – paid an infringement notice penalty in September 2018. The ACCC issued the infringement notice after investigating concerns that Fitness First had imposed a 50 cent flat fee surcharge on memberships paid by direct debit from credit, debit and eftpos cards, between December 2017 and 5 April 2018. The ACCC alleged in the infringement notice that Fitness First charged an excessive payment surcharge by imposing the 50 cent flat fee on a \$46 fortnightly membership payment. This equated to a charge of about 1.09 per cent which was higher than Fitness First’s costs of processing the Mastercard debit payment, which was 0.81 per cent.

In October 2018, Lloyds Auctioneers and Valuers<sup>[19]</sup> – which conducts online and traditional (in-person) auctions across a broad range of product categories – paid penalties for three infringement notices. The ACCC alleged that from September 2017 to March 2018 Lloyds charged customers a 2.25 per cent surcharge when making credit or debit card payments online for auction items purchased. The ACCC considered these surcharges excessive because they were higher than Lloyds’ cost of accepting those payments by as much as 1.43 percentage points.

#### Litigation

On 24 July 2018, the ACCC instituted proceedings against CLA Trading Pty Ltd, trading as Europcar.<sup>[20]</sup> The ACCC alleges that, in 2017, Europcar imposed excessive payment surcharges on credit cards for a two-month period, and on debit cards for a four-month period. It is alleged that Europcar charged surcharges of up to 1.43 per cent, from July 2017 to 5 November 2017, although the rates varied over time and by the type of card. The ACCC alleges that the amount overcharged ranged from at least 0.18 percentage points to as much as 0.65 percentage points for different cards and time periods.

The ACCC alleges that Europcar did not reduce its surcharges after being notified by its acquirer in July 2017 of the actual cost of acceptance for each card type via its annual merchant statement. Instead, it is alleged Europcar continued to charge customers in excess of this amount, in breach of the law.

The ACCC is seeking declarations, pecuniary penalties and costs. The matter is still before the Federal Court.

## Footnotes

- [\*] Cameron Dark, Chay Fisher and Ed Tellez are from the Reserve Bank's Payments Policy Department; Kim McBey is from the Australian Competition and Consumer Commission.
- [1] See also Richards (2016).
- [2] Other electronic payment methods include BPAY, PayPal and POLi.
- [3] The entity that provides services to a merchant to allow it to accept card payments, usually a bank, is generally known as the 'acquirer'. For simplicity, in this article, we refer to the 'merchant's bank', although acquirers are not necessarily banks.
- [4] Merchants also face costs in accepting cash payments, including the costs of storing and reconciling cash and transporting it to a bank (Stewart *et al* 2014).
- [5] See Richards (2017). These data were collected, on an anonymised basis, from all the large card acquirers and relate to the cost of payments for all the four-party card payment systems (eftpos, Debit Mastercard, Mastercard credit, Visa Debit, Visa credit and UnionPay).
- [6] Higher-income households are also more likely to use credit cards to make card payments than lower-income households. However, the proportion of card payments where a surcharge was paid is similar by household income. For more information, see Doyle *et al* (2017).
- [7] Surcharges paid also varied by payment channel, with consumers paying a surcharge more often for online payments than for in-person payments. And merchants in some industries, such as holiday travel (e.g. airlines and accommodation), were more likely to levy a surcharge than others (e.g. takeaway/fast-food retailers).
- [8] The initial reforms did not place specific constraints on the amount that merchants could surcharge; this was considered appropriate at the time given that surcharging was likely to develop slowly and merchants would potentially want to negotiate lower merchant service fees with their banks in exchange for reducing their surcharges.
- [9] Standard No. 3 of 2016: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions.
- [10] American Express and Diners Club have also provided updated undertakings to apply the same surcharging standards as the 'designated' card schemes.
- [11] The one exception is surcharging in the taxi industry, which remains the responsibility of state and territory regulators. Until recently, surcharges of 10 per cent were typical in that industry, but the relevant regulators in most states and territories have taken action to limit taxi surcharges to no more than 5 per cent.
- [12] In most cases it will not be appropriate to set a fixed dollar surcharge as it may exceed the average cost of acceptance on low-value transactions.
- [13] For more information, see the 2015-16 Review of Card Payments Regulation: 'Questions & Answers: Card Payments Regulation'.
- [14] As at December 2018, the infringement notice penalties are 600 penalty units (\$126,000) for a listed corporation, 60 penalty units (\$12,600) for a body corporate and 12 penalty units (\$1,260) for a person other than a body corporate; pecuniary penalties as a result of court action are 6,471 penalty units (\$1,358,910) for a body corporate and 1,295 penalty units (\$271,950) for a person other than a body corporate.
- [15] This fact sheet is available at: <<https://www.accc.gov.au/publications/payment-surcharges-only-charge-what-it-costs-you>>.
- [16] The media release is available at: <<https://www.accc.gov.au/media-release/red-balloon-pays-penalty-for-excessive-payment-surcharges>>.
- [17] The media release is available at: <<https://www.accc.gov.au/media-release/correction-cruisin-motorhomes-pays-penalty-for-excessive-payment-surcharges>>.
- [18] The media release is available at: <<https://www.accc.gov.au/media-release/fitness-first-pays-penalty-for-excessive-surcharging>>.
- [19] The media release is available at: <<https://www.accc.gov.au/media-release/lloyds-auctioneers-pays-penalty-for-excessive-payment-surcharges>>.
- [20] The media release is available at: <<https://www.accc.gov.au/media-release/accc-takes-action-against-europcar-for-excessive-card-payment-surcharges>>.

## References

Doyle M-A, C Fisher, E Tellez and A Yadav (2017), 'How Australians Pay: Evidence from the 2016 Consumer Payments Survey', RBA Research Discussion Paper No 2017-04.

Richards T (2016), 'The New Regulatory Framework for Surcharging of Card Payments', Speech at the 26th Annual Credit Law Conference, Gold Coast, 14 September.

Richards T (2017), 'Merchant Payment Costs and Least-cost Routing', Speech at the Australian Payment Summit, Sydney, 13 December.

Stewart C, I Chan, C Ossolinski, D Halperin and P Ryan (2014), 'The Evolution of Payments Costs in Australia', RBA Research Discussion Paper No 2014-14.