

# Taxi non-cash payment surcharge review 2019

Consultation paper

11 December 2018



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# 1. Summary

## **Our role is to assess the maximum non-cash payment surcharges in taxis**

In 2012, the Taxi Industry Inquiry recommended that non-cash payment surcharges in taxis be regulated.<sup>1</sup> These surcharges are fees charged to passengers, on top of the standard taxi fare, for paying by any method other than cash. The Inquiry recommended that the maximum surcharge be set at five per cent. Prior to this recommendation it was industry standard to have a surcharge of 10 per cent on non-cash payments. The Inquiry also recommended that we should review the maximum surcharge.

In 2014, legislation came into effect setting the maximum non-cash payment surcharge (maximum surcharge) at five per cent and giving us the power to determine the maximum surcharge.<sup>2</sup> Following recent reforms to commercial passenger vehicle industry legislation, we are now required to determine the maximum surcharge for taxis by 2 July 2019.<sup>3</sup>

## **We are reviewing the maximum non-cash payment surcharge**

This consultation paper marks the start of our first review of the maximum surcharge. During this review we will establish our methodology and approach, which we will then use to determine the maximum surcharge. In determining the maximum surcharge our objective is to promote efficiency<sup>4</sup> and the long term interests of Victorian consumers<sup>5</sup> while also allowing taxi payment processors to recover reasonable cost (see Box 1).<sup>6</sup>

### **Box 1: Our objectives**

Under the Commercial Passenger Vehicle Industry Act 2017 (Vic) the objective of the commission in relation to the non-cash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, the commission must ensure that persons facilitating the

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<sup>1</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Final Report, September 2012, p. 217.

<sup>2</sup> Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013.

<sup>3</sup> Commercial Passenger Vehicle Industry Act 2017, s. 124.

<sup>4</sup> Commercial Passenger Vehicle Industry Act 2017, s. 122.(1).

<sup>5</sup> Essential Services Commission Act 2001, s. 8.

<sup>6</sup> Commercial Passenger vehicle Industry Act 2017, s. 122(2).

making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.<sup>7</sup>

Under the Essential Services Commission Act 2001 (Vic) the objective of the commission is to promote the long term interests of Victorian consumers. The commission must in seeking to achieve this objective have regard to the price, quality and reliability of essential services.<sup>8</sup> In addition, the commission must have regard to a range of matters outlined in appendix D.

This paper is intended to give stakeholders the information that they need in order to share their views on what issues we should consider while assessing the maximum surcharge. It is also intended to give stakeholders an opportunity to comment on our understanding of the industry and the approach we will take to reviewing the maximum surcharge.

After submissions close on the consultation paper, we will release our draft decision on the maximum surcharge. This draft decision will give stakeholders the opportunity to comment on the analysis underlying our draft decision. Following this, we will release our final decision with a determination on the maximum surcharge. Table 1.1 gives an indicative timeline for the review.

Our charter of consultation and regulatory practice has further information on the principles that guide our approach to consultation.<sup>9</sup>

**Table 1.1: Indicative timeline**

Activity	Indicative timeline
Release consultation paper	11 December 2018
Deadline for submissions on consultation paper	4 February 2019
Release draft decision	April 2019
Deadline for submissions on draft decision	May 2019
Release final report and price determination	1 July 2019
Price determination comes into effect	September 2019

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<sup>7</sup> Commercial Passenger Vehicle Industry Act 2017 (Vic), s.122.

<sup>8</sup> Essential Services Commission Act 2001 (Vic), s. 8.

<sup>9</sup> ESC, Stakeholder Engagement Framework: Charter of Consultation and Regulatory Practice, 2018, available at: <https://www.esc.vic.gov.au/sites/default/files/documents/stakeholder-engagement-framework-charter-of-consultation-and-regulatory-practice-20180627.pdf> (accessed on 22 November 2018).

## **We seek views on our methodology and approach**

In setting the maximum surcharge we must ensure that it allows persons facilitating the making of non-cash payment transactions to recover ‘the reasonable cost of accepting and processing non-cash payments’.<sup>10</sup> We propose to use bottom-up cost assessments and benchmarking to assess reasonable costs.

In a bottom-up cost assessment, regulated businesses submit detailed information on their costs to the regulator. The regulator then determines the price required for the regulated business to recover its costs (including a market return on the business’ assets). A bottom-up cost review is a relatively data intensive method of assessing reasonable costs.

Benchmarking methods use cost or price data available on comparable services to make findings on costs. For example, we could use information on the price of accepting and processing non-cash payments in other industries to inform our determination on the maximum surcharge for taxis.

We seek views on whether we should use these methods, or others, in assessing reasonable costs and on our proposed approach to applying these methods (see chapter three).

## **This is your opportunity to provide your views**

We want to hear your views on the maximum surcharge and our proposed approach to regulation. We encourage you to provide written submissions addressing the questions in this paper and any other information relevant to the review. **Submissions to this consultation paper are due by 4 February 2019.**

Please email your submission to [transport@esc.vic.gov.au](mailto:transport@esc.vic.gov.au). You may also send submissions via fax to 03 9032 1303 or by mail marked:

Attention: Transport Division  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

### **Publication of submissions**

To promote an open and transparent review process, we will make all submissions publicly available on our website [www.esc.vic.gov.au](http://www.esc.vic.gov.au).

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<sup>10</sup> Commercial Passenger Vehicle Industry Act 2017, s. 122(2).

We treat all submissions as public information unless the submitter has asked us to treat some or all of a submission as confidential or commercially sensitive. Please clearly specify any information that you **do not** want to be made public.<sup>11</sup>

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<sup>11</sup> <https://www.esc.vic.gov.au/about-us/our-submission-policy>

## 2. What is a non-cash payment surcharge and who collects it?

### **The surcharge applies when using any payment method other than cash**

A non-cash payment surcharge is “a fee or charge added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction”.<sup>12</sup> As a result, the surcharge is applicable when paying for taxi services by credit card, debit card or charge card. It applies to all non-cash payment transactions for both booked and unbooked taxi services. Currently, taxis can apply a surcharge of up to a maximum of five per cent (including GST). This is an additional \$1.40 on the average taxi fare of \$28 in Metropolitan Melbourne.

While the definition of the maximum surcharge in the Commercial Passenger Vehicle Industry Act refers to all commercial passenger vehicles, we do not regulate non-cash payment surcharges for rideshare and hire car services.<sup>13</sup> Rideshare and hire car surcharges are regulated by the Reserve Bank of Australia (RBA) under the national payment systems framework.<sup>14</sup>

### **Usually taxi payment processors collect the surcharge**

A non-cash payment surcharge may be collected by the taxi payment processor, booking service provider, taxi driver or taxi owner. Who surcharges the passenger will vary depending on the payment terminal used.

#### **Taxi payment processor surcharging**

There are a large number of different taxi payment processing services that provide payment terminals specifically designed for the taxi industry. These include Cabcharge, Cabfare, GM Cabs, Ingogo, Live Taxi and Smartpay. Although these services differ in their relationship with financial institutions, owners, drivers and payment schemes (such as Visa and MasterCard), for the purpose of our review we will call them taxi payment processors.

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<sup>12</sup> Commercial Passenger Vehicle Industry Act 2017, s.112(1).

<sup>13</sup> Commercial Passenger Vehicle Industry Act 2017, s.112(2).

<sup>14</sup> RBA 2016, Standard No. 3 of 2016: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions, May.



### ***Services provided by taxi payment processors***

The terminals provided by taxi payment processors can perform more functions than terminals provided by other payment processors (such as the big 4 banks, Tyro, or Square). These functions can include integration with the taxi meter, integration with the taxi dispatch system, payment of government taxi subsidies, calculation of the non-cash payment surcharge and printing of tax invoices with pick-up and drop-off locations.

### ***How taxi payment processors collect the surcharge***

Taxis mostly use terminals provided by taxi payment processors. These terminals pay the fare and surcharge to the taxi payment processor. The surcharge is kept by the taxi payment processor and the fare is transferred to the driver, operator, or booking network. Some taxi payment processors also transfer a share of the surcharge to drivers, owners, and/or networks.

### ***How taxi payment processors compete***

For cards other than Cabcharge-branded cards, drivers can choose between different payment processing options.<sup>15</sup> Taxi payment processors therefore compete for drivers to steer payments to their payment devices. As a result, taxi payment processors usually do not charge drivers for accepting non-cash payments, but often provide different forms of incentives to attract more drivers to use their payment terminals.<sup>16</sup> Some taxi payment processors offer drivers other incentives such as commission<sup>17</sup>, redeemable vouchers or gasoline discounts.<sup>18</sup>

### **Booking service provider surcharging**

Booking service providers take booking requests from passengers and allocate jobs to drivers. Traditionally, bookings have been taken by telephone but increasingly passengers are booking taxis using smartphone applications.

When a passenger books a taxi, in some cases the booking service provider will take payment for the trip. This is most likely to occur when booking a taxi using an app. If the booking service provider takes payment it may charge up to the maximum surcharge. We note that some booking service providers choose not to impose any surcharge.

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<sup>15</sup> Cabcharge-branded cards can only be processed by Cabcharge terminals and one other competitor. We understand another party is interested to process Cabcharge-branded cards.

<sup>16</sup> Taxi payment processors often charge a fixed fee if drivers do not process over a certain threshold each month.

<sup>17</sup> <https://www.ingogo.com.au/driver> (accessed on 25 October 2018).

<sup>18</sup> <http://www.gmcabs.com.au/eftpos-solution/> (accessed on 25 October 2018).

## Taxi driver surcharging

In a small number of cases, drivers use non-taxi payment terminals (for example Square terminals). In this case, at the end of the trip, the driver manually adds the surcharge amount, of up to the maximum of five per cent, when inputting payment into the terminal. In this case both the fare and surcharge are deposited into the driver's account (less any fees from their financial institution).

## We will review the maximum surcharge taxi passengers pay

Regardless of who charges the surcharge we will set the maximum amount that passengers pay.<sup>19</sup> The maximum surcharge we set will also apply to fees or charges payable by taxi drivers or owners to taxi payment processors because a fare has been paid by means of a non-cash payment transaction.<sup>20</sup>

### Questions for stakeholders on our understanding of taxi non-cash payments

1. As part of our review we have met with taxi drivers, taxi owners, taxi payment processors, booking service providers, CPVV, and Transport for Victoria. Our intention is to continue to meet and work with stakeholders in our review of the maximum non-cash payment surcharge. Are there any other stakeholders in the taxi non-cash payment industry that we should contact as part of our review?
2. Is there any part of the supply chain that we appear to have misunderstood?

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<sup>19</sup> Commercial Passenger Vehicle Industry Act 2017, s.112(3)(a).

<sup>20</sup> Commercial Passenger Vehicle Industry Act 2017, s.112(1)(b).

### 3. We will use reasonable cost to assess the non-cash payment surcharge

#### Our objectives

In setting the maximum non-cash payment surcharge (maximum surcharge) our objectives are to:

- Promote efficiency in the non-cash payment transaction industry by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, we must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.<sup>21</sup>
- Promote the long term interests of Victorian consumers. In seeking to achieve this objective we must have regard to the price, quality and reliability of essential services.<sup>22</sup>

We must also have regard to a range of other matters to the extent they are relevant: such as the financial viability of the industry and the degree and scope of competition.<sup>23</sup> Additionally we must adopt an approach and methodology which we consider will best meet the objectives set out above.<sup>24</sup>

#### Promoting efficiency

In the context of the legislative objectives set out above, we propose to adopt a working definition of efficiency in the non-cash payment transaction industry. For the purpose of this review we consider that efficiency means:

- the right amount of non-cash payment services are provided to consumers (that is, there is no excess demand or excess supply)
- there are the right incentives for investment and innovation by service providers and
- unnecessary costs are not incurred by customers when making non-cash payment transactions.

To promote these outcomes the maximum surcharge should not be set too low or too high. If the maximum surcharge is set too low then taxi payment processors will not be able to recover their

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<sup>21</sup> Commercial Passenger Vehicle Industry Act 2017 (Vic) s. 122.

<sup>22</sup> Essential Services Commission Act 2001 (Vic), s. 8.

<sup>23</sup> Given that non-cash payment transactions are prescribed services, the maximum amounts of non-cash payment surcharges are prescribed prices and the non-cash payment transaction industry is a regulated industry for the purposes of the Essential Services Commission Act 2001 (Vic), we must also have regard to a number of other matters: Essential Services Commission Act 2001 (Vic), s 8A and s 33(3) (see Appendix D).

<sup>24</sup> Essential Services Commission Act 20019 (Vic), s33(2).

costs, including a reasonable return on their investment. This could lead to under-investment in payment processing services which could see passengers wanting to make non-cash payments for taxi travel finding they are unable to do so (meaning there is excess or unmet demand for these services). On the other hand, if the maximum surcharge is set too high, customers will be paying more than would otherwise be necessary. Further, it could lead to over-investment in payment processing (excess supply) which might eventually be 'stranded' if the recoverable value of the surcharge falls through regulation or competition.

In other words, competition also has a role to play. Non-cash payment processing services are provided by a number of competing taxi payment processors. If the regulated maximum surcharge is set too low, it may leave too little scope for robust competition between taxi payment processors (recalling that the commission only sets the *maximum* surcharge that service providers may recover from passengers). If the maximum surcharge is set too high and there is robust competition among service providers, then the surcharge might be expected to be bid below the regulated value as rivals seek to attract customers. However, as explained in appendix C, even if the surcharge imposed by payment processing providers is competed to a value below the regulated maximum, this does not mean that this benefit will flow through to passengers.

As a result, understanding the cost of accepting and processing non-cash payment transactions will be a key part of this review.

### **Promoting the interests of Victorian consumers**

A maximum surcharge that promotes efficiency in the non-cash payment transaction industry will also promote the long term interests of consumers. A surcharge that promotes the efficient provision of services will provide the financial incentives taxi payment processors require to provide an affordable service at the level of quality and reliability that consumers expect.

### **We will assess the reasonable cost of service**

We consider the term 'reasonable cost' to mean costs incurred in accepting and processing non-cash payment transactions, which are moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability.

The reasonable cost, upon which the maximum surcharge would be based, may differ to any individual firm's actual costs. A firm incurring a cost does not, in itself, make a cost reasonable. For example, if a taxi payment processing firm incurred costs that were not required to accept and process non-cash payments, it would not be reasonable for them to expect to be able recover those costs from passengers making non-cash payments.

The Commercial Passenger Vehicle Industry Act provides some guidance on the meaning of reasonable cost for non-cash payment transactions, but does not give an exhaustive definition.<sup>25</sup> We propose to use the RBA's standard on merchant surcharging as a starting point to help us assess the reasonable cost of accepting and processing non-cash payments. The RBA is responsible for regulating non-cash payment surcharges in all other industries except the taxi industry.<sup>26</sup> Under the RBA's standard, a surcharge for a payment method must not exceed merchants' costs of acceptance: this is the average cost per transaction for that payment method. The cost of acceptance is set out in the RBA's standard on merchant surcharging and includes bank fees and other costs paid to third parties for non-cash payment processing<sup>27</sup> but excludes merchants' internal costs such as labour or electricity costs.<sup>28</sup> More detail on the RBA's standard can be found in appendix B.

In using the RBA's standard we would also account for any additional non-cash payment services provided by taxi payment processors by making an allowance for the reasonable costs of providing those additional services.

## **Methodologies for assessing reasonable cost**

Two methods regulators often use to assess costs are bottom-up cost assessment and benchmarking.

### **Bottom-up cost assessment**

Bottom-up cost assessments are commonly used to estimate costs by adding together the elements that make up a business' costs. The costs that are usually included in bottom-up cost assessments include:

- Operating costs (annual expenses)
- Depreciation costs (this accounts for the purchase price of assets)
- A return on capital (to give businesses an incentive to invest)
- Tax costs (an allowance for tax liabilities)

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<sup>25</sup> Reasonable cost includes any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards: Commercial Passenger Vehicle Industry Act 2017 (Vic), s 122(3).

<sup>26</sup> RBA 2016, Standard No.3 of 2016: Scheme rules relating to merchant pricing, May, p.5.

<sup>27</sup> RBA 2016, Standard no. 3 of 2016: Scheme rules relating to merchant pricing, May, pp.6-9.

<sup>28</sup> RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018); ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2.

We will use reasonable cost to assess the non-cash payment surcharge

Bottom-up cost assessments are generally quite data intensive. Businesses must submit detailed information on their past costs and how they expect these costs will change in the future. The regulator must then assess the costs submitted by the regulated business.

To minimise the cost of data collection we could base our bottom-up cost assessment on data already provided by taxi payment processors to regulators. For example, this could include data on operations maintained in accordance with the Commercial Passenger Vehicle Industry Regulations 2018 (Vic).<sup>29</sup>

## **Benchmarking**

Benchmarking uses information on prices or costs from comparable markets to determine reasonable costs.

Benchmarking is a simpler way of assessing costs than bottom-up cost assessments. It is relatively less data intensive. Instead of estimating costs by adding up a large number of cost categories, benchmarking creates an estimate using information already available for similar services.

An obvious benchmark for non-cash payment processing in taxis is the costs of non-cash payment processing in other retail markets. This is because the underlying cost of providing non-cash payments should be quite similar. The technology in payment terminals is quite similar and interchange fees for debit and credit payment systems are regulated.

Although there are many similarities between the cost of accepting and processing non-cash payments in taxis and the broader economy, we will need to take into account the differences between the two. For example, we will need to consider differences in total transaction values. These will impact both merchant service fees and how the cost of payment terminals are amortised across transactions.<sup>30</sup> We will also consider key differences, if any, in terms of services provided by taxi payment processors and non-taxi payment processors.

## **Approach to assessing reasonable cost**

To assess the reasonable cost of accepting and processing non-cash payments we propose to use both bottom-up cost based assessment and benchmarking. Using two different methods will improve the robustness of our decision. We will be able to use results from each method as a crosscheck of the results from the other method.

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<sup>29</sup> Commercial Passenger Vehicle Industry Regulations 2018, reg.36.

<sup>30</sup> <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html>.

In order to implement these methods we will request information from taxi payment processors on their costs following the release of this consultation paper. The method on which we place the most weight when we make our determination on the maximum surcharge may depend on the quality of the data that we receive. In circumstances where regulated businesses provide limited useful information on their costs, regulators sometimes place greater weight on benchmarking.

### **Questions for stakeholders on our approach to assessing reasonable costs**

3. What evidence is there that the current five per cent maximum surcharge is lower than, higher than, or reflects 'the reasonable cost' of accepting and processing non-cash payments?
4. What sources of information should we consult when assessing reasonable costs?
5. Are the costs of acceptance included in the RBA's merchant surcharging standard reflective of the reasonable cost of processing non-cash payments for taxis? If not, which costs should be included or excluded?
6. What are the advantages and disadvantages of using bottom-up cost assessments for the reasonable cost of accepting and processing non-cash payments?
7. What are the advantages and disadvantages of using benchmarking methods to assess the reasonable cost of accepting and processing non-cash payments?
8. What differences in costs would need to be taken into account if benchmarking non-cash surcharges from taxi payment processors and other payment terminal providers?
9. What other methods could we use to assess the reasonable cost of accepting and processing non-cash payments?

## 4. Should there be a single maximum surcharge?

We are required to ensure that persons facilitating the making of non-cash payment transactions are able to recover ‘**the** reasonable cost of accepting and processing non-cash payment transactions’.<sup>31</sup> The use of singular terminology suggests that we are required to ensure that the maximum surcharge is enough to recover a single industry wide cost.

Given that we are required to ensure the recovery of a single industry wide cost, we could set a single amount for the maximum non-cash payment surcharge (maximum surcharge). However, we also have the option of setting multiple maximum surcharges under the Commercial Passenger Vehicle Industry Act and the Essential Services Commission Act.<sup>32</sup>

The most obvious reason why we might set a number of different maximum surcharges would be because some payment methods are more costly than others.

### **Payment terminals accept many different payment methods**

Passengers may choose to pay for their taxi fare using credit cards, debit cards or charge cards. Different terminals accept different payment methods but taxis commonly accept:

- American Express
- Cabcharge
- Diners club
- EFTPOS
- MasterCard
- Visa.

### **The cost of accepting and processing varies between payment methods**

Payment processors pay different fees to financial institutions depending on the type of card used and whether payment is made online or in-taxi.

### **Merchant service fees vary for different cards**

Financial institutions charge merchants different amounts for accepting different payment methods. For example, payment processors will tend to pay more for accepting American Express and

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<sup>31</sup> Commercial Passenger Vehicle Industry Act 2017 s. 122(2).

<sup>32</sup> Commercial Passenger Vehicle Industry Act 2017 s. 124(1); Essential Services Commission Act 2001, s. 33(5).

Should there be a single maximum surcharge?



Diners club cards than Visa or MasterCard cards. Table 4.1 below provides benchmarks for the fees charged for accepting different card types.

**Table 4.1: RBA merchant service fee benchmarks<sup>33</sup>**

Payment type	Typical surcharge
Domestic EFTPOS system	below 0.5 per cent
MasterCard and Visa Debit	0.5 to 1 per cent
MasterCard and Visa Credit	1 to 1.5 per cent
American Express	1.5 to 2 per cent

### **Merchant service fees are higher for online transactions**

Merchant service fees tend to be higher for online payment processing.<sup>34</sup> This is due to the higher risk of fraud in processing payments without having a card physically present.

### **We will examine whether the maximum surcharge should vary by payment method**

There are advantages and disadvantages with having either a maximum surcharge that varies by payment method or a single maximum for all payment methods.

A single maximum non-cash payment surcharge is easy to understand and implement. However, it will not give price signals to passengers about the relative costs of different payment methods.

The reverse is true for having maximums that vary by payment method. Having a separate maximum for each payment method will improve the efficiency of non-cash payments. Passengers will be less likely to use high cost payment methods as they will bear the cost of their decisions. However, having a large number of different maximums may make it difficult for passengers to understand surcharges and limit passengers' awareness of price differences.

We will consider the benefits of having separate maximum surcharges for different payments against the additional complexity this may create for consumers.

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<sup>33</sup> RBA, How do I know the surcharge imposed by a merchant is reasonable, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 24 October 2018).

<sup>34</sup> RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 20.

Should there be a single maximum surcharge?

### Questions for stakeholders on the number of maximums that should be set

10. Should there be a single maximum surcharge for all types of payment methods? Why, why not?
11. Apart from accounting for different payment types, are there any other reasons why there should be multiple maximums?
12. What do you think are some of the key consequences of having a single maximum surcharge or many maximums?

Should there be a single maximum surcharge?

# Appendix A: The non-cash payments supply chain

This section explains how the non-cash payment systems work in general and how they are similar or different in the taxi industry.

## Non-cash payment systems

Non-cash payment systems allow consumers to pay, and businesses to accept payment, for goods and services without using cash. There are two main elements of non-cash payment systems:

- the different payment instruments consumers use: cheques, credit, debit and charge cards
- the payment arrangements or card schemes in place which would ensure funds move to and from accounts of relevant financial institutions.

The Reserve Bank of Australia reports that between 2007 and 2016 the proportion of non-cash payments of all transactions in Australia increased from 31 to 63 per cent.<sup>35</sup> Over the same period the share of cash payments decreased from 69 per cent to 37 per cent.

## Payment instruments

There are many different types of non-cash payment methods. These include cheque, cards and vouchers. The most commonly used form of non-cash payment in Australia is cards. In 2016 credit and debit card payments made up 83 per cent of all non-cash payments.<sup>36</sup> Some of the most commonly used cards are Visa, Mastercard, and EFTPOS.

When a credit or debit card is used, cardholders pay for goods and services using credit from the financial institution that issued the credit or charge card. They may be used by the cardholder at the point of sale (card present) or via phone or the internet (card not present).

When debit cards are used to purchase goods or services, cardholders use money they have deposited in an account. There are two types of debit cards in Australia: the EFTPOS system and scheme debit cards. EFTPOS cards are issued by Australian banks and are mainly used domestically. EFTPOS card transactions may only occur in person at the point of sale (card present). Scheme debit cards are offered by Visa and Mastercard. Scheme debit cards can be used inside and outside Australia for either card present or not present transactions.

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35 RBA (2017), How Australians Pay: Evidence from the 2016 Consumer Payments Survey, Research Discussion Paper 2017-04, July, p.2.

36 RBA (2017), How Australians Pay: Evidence from the 2016 Consumer Payments Survey, Research Discussion Paper 2017-04, July, p.2.

## Payment arrangements or card schemes

A payment arrangement or a card scheme is a payment network consumers and businesses can access to make or accept payment. The network is accessed most commonly by payment cards.

The two most common types of card schemes are four-party and three-party schemes which are discussed in detail below.

### Key players

There are five main players in the non-cash payment system.<sup>37</sup> They are the:

- **cardholders** – the person or customer who has been issued the card
- **cardholder banks (also called issuing bank or issuer)** – the bank that issues the card to the cardholder. It provides credit in the case of credit cards or access to the cardholder's funds in the case of debit cards
- **merchants** – the person or business accepting a card as payment for goods or services
- **merchant banks (also called acquiring bank or acquirer)** – the institution that provides payment to merchants who have accepted a card as payment. It is responsible for requesting authorisation of a transaction from the cardholder's bank. It also supplies the payment terminals to merchants
- **payment schemes** – provide a range of services including transaction processing and international networking.

## How credit, debit and charge card transactions work

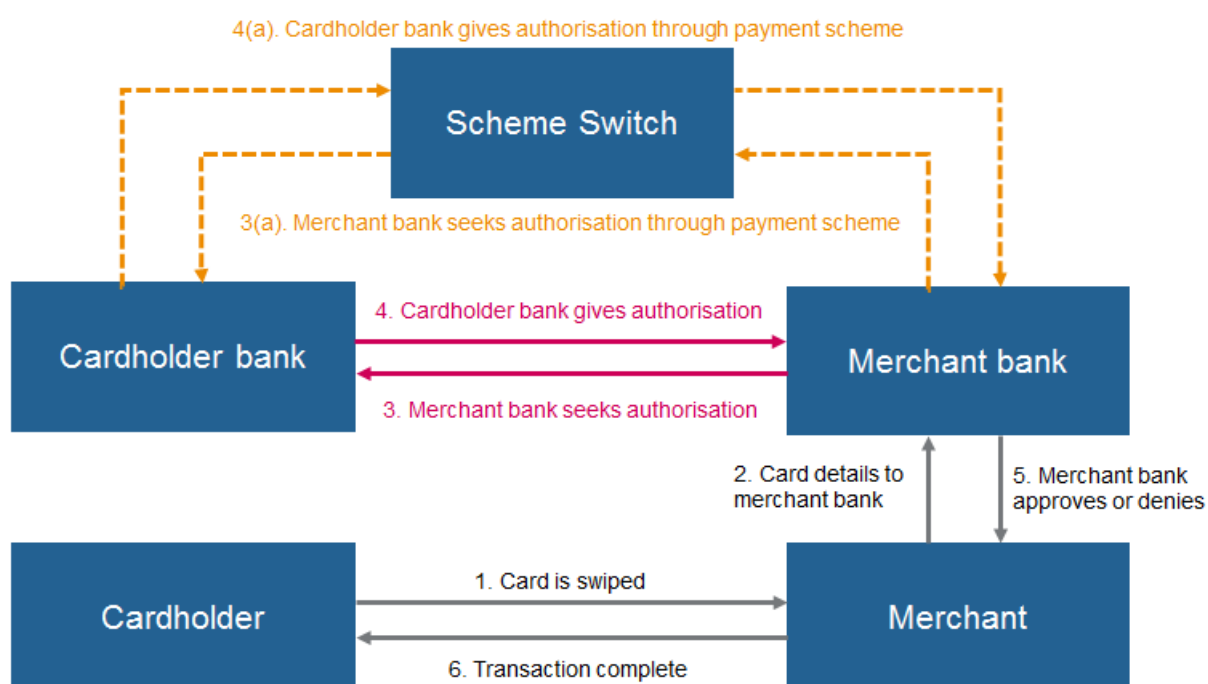
### Flow of information and relevant charges: four-party scheme

The parties involved in a four-party scheme are the cardholder, the cardholder's bank, the merchant, the merchant's bank and in some cases the payment scheme. Figure A.1 below describes the flow of information in a typical four-party scheme transaction.

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<sup>37</sup> RBA (2005), Review of RBA and Payment Systems Board Annual Reports 2005 (First Report), June, p.25.

**Figure A.1: Information flow for four-party scheme transactions**



Notes:

1. Card is swiped through the payment terminal.
2. Transaction and cardholder details are sent to the merchant's bank.
3. If the merchant's bank is also the cardholder's bank the transaction can be authorised internally and the authorisation returned to the merchant. If the cardholder's bank is a different financial institution, the merchant's bank sends the transaction to the cardholder's bank (3) or through the payment scheme such as Visa or Mastercard (3a).
4. The cardholder's bank authorises or declines the transaction and sends the relevant message to merchant's bank (4) or via the payment scheme (4a).
5. The merchant's bank tells the merchant if the payment is authorised.
6. If the transaction is authorised, the transaction is complete.

Source: RBA (2005), Review of RBA and Payment Systems Board Annual Reports 2005 (First Report), June, p.26.

Fees paid in a four-party scheme transaction generally include an interchange fee, a merchant service fee and a surcharge.

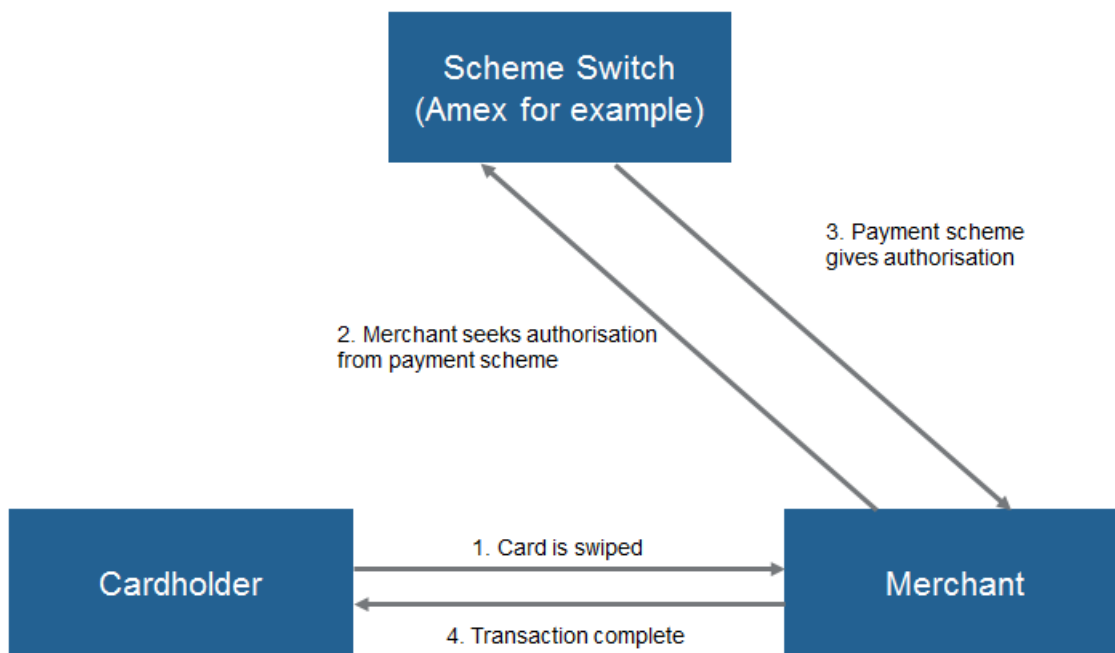
- An **interchange fee** is paid by the merchant's bank to the cardholder's bank every time a payment is made with a credit, debit and charge card. However, for EFTPOS transactions it is the cardholder's bank which pays the merchant's bank an interchange fee. The level of interchange fee is agreed between the cardholder's bank and the card schemes (Visa, Mastercard, EFTPOS) but is capped by the RBA (see appendix B for details).
- The **merchant service fee** is charged by the merchant's bank to recover the costs of providing services to merchants. The merchant service fees are not capped by the RBA.

- The **surcharge** is the charge a merchant collects from a cardholder/customer to recover the costs of accepting a non-cash payment. Under the RBA's standards, a surcharge must not exceed the merchant's costs of acceptance of a card, being the average cost per card transaction (see appendix B for details).

### Flow of information and relevant charges: three-party scheme

In a three-party scheme, the issuer and the acquirer are the same entity, hence the name three-party. The key players are the issuer/acquirer, the cardholder and the merchant. Examples of three-party schemes are American Express and Diners Club. For example, American Express issues the card to cardholders and authorises merchants to accept or decline cardholders' American Express cards. Three-party transactions account for only about eight per cent of the number of all card transactions.<sup>38</sup> Figure A.2 shows a typical three-party scheme transaction.

**Figure A.2: Information flow for three-party scheme transactions**



Notes:

1. Card is swiped by cardholder.
2. Merchant sends card details to scheme switch (American Express for example).
3. Scheme authorises or declines the transactions and sends the relevant message to the merchant.
4. If the transaction is authorised, the transaction is complete.

<sup>38</sup> RBA, Payments Data, C:2 Market Shares of Credit and Charge Card Schemes, available at: <https://www.rba.gov.au/payments-and-infrastructure/resources/payments-data.html> [last accessed 20 November 2018].

Because the issuing and acquiring entities are the same, there is no interchange fee in a three-party scheme transaction. However, the issuing/acquiring entity charges the merchant a merchant service fee. Merchant service fees under three-party schemes are generally higher than merchant service fees under four-party schemes.<sup>39</sup> Three-party schemes are not subject to the RBA's formal regulation on surcharging. But American Express and Diners Club each have a voluntary undertaking consistent with the RBA's surcharging standards.<sup>40</sup>

## **Non-cash payment transactions in the taxi industry**

### **Payment instrument cards**

In the taxi industry, credit, debit, and charge cards are all accepted forms of non-cash payment. Unlike in other parts of the economy, charge cards have a significant market share of non-cash payments in the Victorian taxi industry. This is due to the widespread use of Cabcharge payment instruments.

### **Four-party scheme**

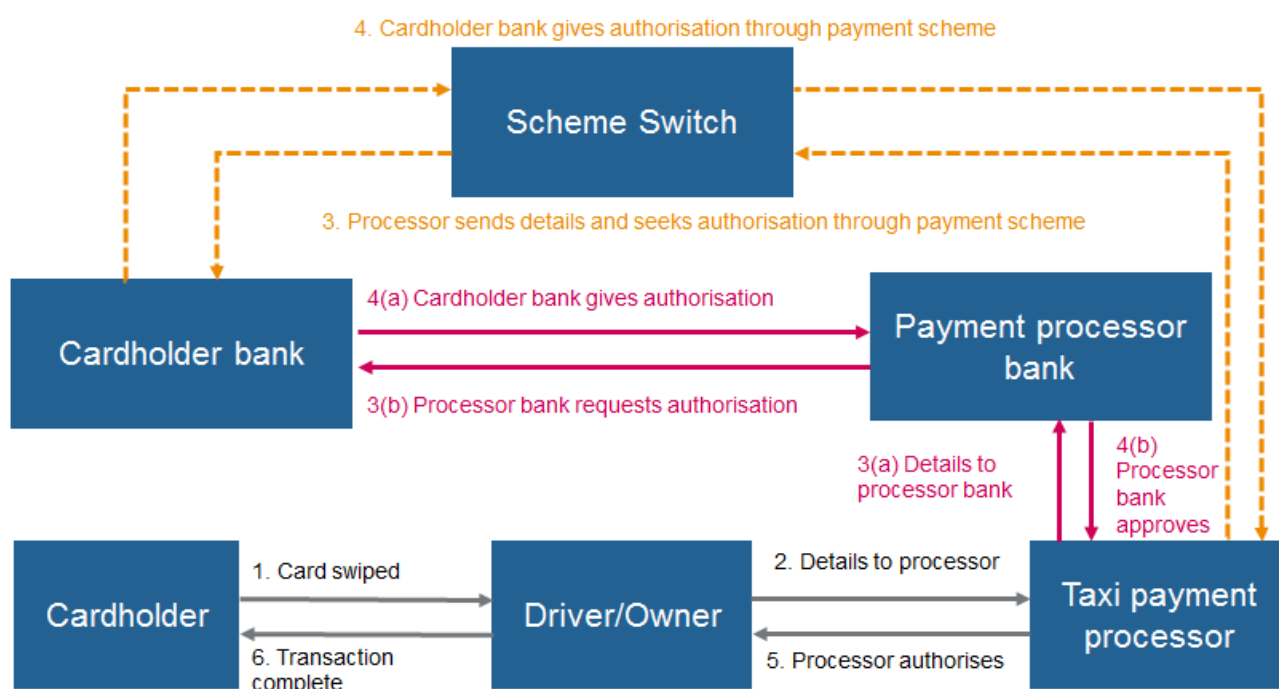
The flow of information described for a four-party scheme in figure A.1 also applies to the taxi industry but with one variation (figure A.3). An additional key player has been added: the taxi payment processor. Taxi payment processors aggregate taxi operators' non-cash transactions and act as the merchant interfacing with the acquiring bank. Instead of banks, the taxi payment processor supplies payment terminals to drivers, booking service providers or taxi operators as part of its payment services.

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<sup>39</sup> RBA (2016), Review of Card Payments Regulation Conclusions Paper, May, p.8.

<sup>40</sup> RBA (2016), Review of Card Payments Regulation Conclusions Paper, May, p.39.

**Figure A.3: Information flow for four party scheme transactions in the taxi industry**



Unlike other industries, the maximum surcharge that may be charged for non-cash payment for taxi services is not regulated by the RBA. It is regulated by state regulators. In Victoria a maximum surcharge of five per cent may be collected from cardholders.

### Cabcharge payment system

The Cabcharge payment system is a three-party scheme similar to that shown in figure A.2 above. As an issuer, Cabcharge has a relationship with the cardholder. It issues Cabcharge cards to account holders and charges them a five per cent service fee on all payments on the card.

There is no interchange fee in the Cabcharge scheme because Cabcharge is both the issuer and acquirer.

### Competition in Victoria for providing payment services

Historically, there has been a high degree of market concentration in taxi payment processing, with Cabcharge holding strong positions in both taxi-specific payment instruments and payment processing.<sup>41</sup> While there are a number of players providing payment services in the Victorian taxi industry such as Taxi LiveEpay, CabFare, GM Cabs, Ingogo and Smartpay, Cabcharge remains a dominant player in the provision of payment services.

<sup>41</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Final Report, September 2012, p. 208.



Cabcharge's competitors provide mobile payment terminals to drivers or some taxi operators. To steer payments to their payment devices, taxi payment processors provide drivers different forms of incentives to use their payment terminals. Some taxi payment processors offer drivers other incentives such as commission<sup>42</sup>, redeemable vouchers or gasoline discounts.<sup>43</sup>

However, Cabcharge's payment terminals have a significant advantage over other competitors. Generally competitors' payment terminals cannot accept Cabcharge cards or process MPTP subsidies. Cabcharge cards are a major form of payment for business and government travellers and, under state government regulation, taxis are required to have a terminal that can process MPTP subsidies.<sup>44</sup>

Although, historically these factors may have provided Cabcharge a significant advantage over other processors, stakeholders have told us that one third-party taxi payment processor has been processing Cabcharge cards on some of their terminals. Also, Oiii, a recently entered taxi network, has also just recently announced that they have a new technology able to process MPTP cards without a Cabcharge terminal.<sup>45</sup>

## **Taxi non-cash payment surcharging in other jurisdictions**

Preliminary research of non-cash payment surcharges in other jurisdictions in and outside Australia reveals the following:

- In Australia, all States and Territories, except Tasmania, allows a five per cent non-cash payment surcharge for taxis. Tasmania's non-cash payment surcharge is 10 per cent.
- In Singapore, a 10 per cent administrative fee (exclusive of GST) applies to credit and corporate card payments. The administrative fee includes merchant service fees, the cost of payment terminals and the running cost of the payment system.<sup>46</sup> The 10 per cent administrative fee is not regulated.

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<sup>42</sup> <https://www.ingogo.com.au/driver> (accessed on 25 October 2018).

<sup>43</sup> <http://www.gmcabs.com.au/eftpos-solution/> (accessed on 25 October 2018).

<sup>44</sup> Commercial passenger vehicle registration conditions, condition 5(1), available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions#> (last accessed 23 November 2018).

<sup>45</sup> <https://yxier.pr.co/169788-oiii-breaks-mptp-industry-monopoly-with-the-release-of-new-victorian-government-approved-technology> (accessed 23 November 2018).

<sup>46</sup> <https://www.ausbt.com.au/your-handy-guide-to-catching-taxis-in-singapore>, <https://dollarsandsense.sg/complete-guide-singapore-taxis-flag-rate-fares/>, <https://www.straitstimes.com/forum/letters-in-print/breakdown-of-e-payment-surcharges-in-cab-fare> (accessed on 10 October 2018).

- In New Zealand, the non-cash payment surcharge is not regulated. Taxis typically charge a percentage of the total fare or flat rate of around \$2.00.<sup>47</sup>
- In the UK, non-cash payment surcharges including for taxis have been banned.<sup>48</sup>
- In the EU, the Payment Services Directive (PSD2) prohibited businesses from charging extra when consumers use credit cards or debit cards starting January 2018.<sup>49</sup>

We will undertake further research on the above non-cash payment surcharges to better understand their basis.

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<sup>47</sup> [https://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=10797806](https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10797806) (accessed on 20 November 2018).

<sup>48</sup> <https://tfl.gov.uk/modes/taxis-and-minicabs/taxi-fares?intcmp=4223> (accessed on 10 October 2018).

<sup>49</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L2366&from=EN> (accessed on 4 November 2018).

## Appendix B: Regulation of non-cash payment surcharging in other industries

The Reserve Bank of Australia is responsible for regulating non-cash payment surcharging in every industry except the taxi industry. Under the Payment Systems (Regulation) Act 1998 the RBA has the power to:

- designate payment systems, and in those designated payment system
- impose an access regime on the participants
- determine standards to be complied with by the participants.

The RBA regulates non-cash payment surcharges through its standard on *Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions* (the standard).<sup>50</sup>

It is important for us to understand the RBA's role as the Commercial Passenger Vehicle Industry Act 2017 specifically states that we do not have the power to set fees and charges regulated by the RBA.<sup>51</sup>

### Surcharging is allowed in Australia

In Australia, merchants may surcharge for non-cash payment transactions if they choose, provided the surcharge is not excessive. The standard allows surcharging that reflects the cost to a business of accepting different payment methods. A surcharge is considered excessive if it exceeds the 'cost of acceptance'.

The Competition and Consumer Act 2010 (Cth) covers surcharges on the following card payment systems:

- EFTPOS (debit and prepaid)
- MasterCard (credit, debit and prepaid)
- Visa (credit, debit and prepaid), and
- American Express companion cards.<sup>52</sup>

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<sup>50</sup> Available at: <https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/regulations.html>

<sup>51</sup> Commercial Passenger Vehicle Industry Act 2017, s.112(2)(a-b)

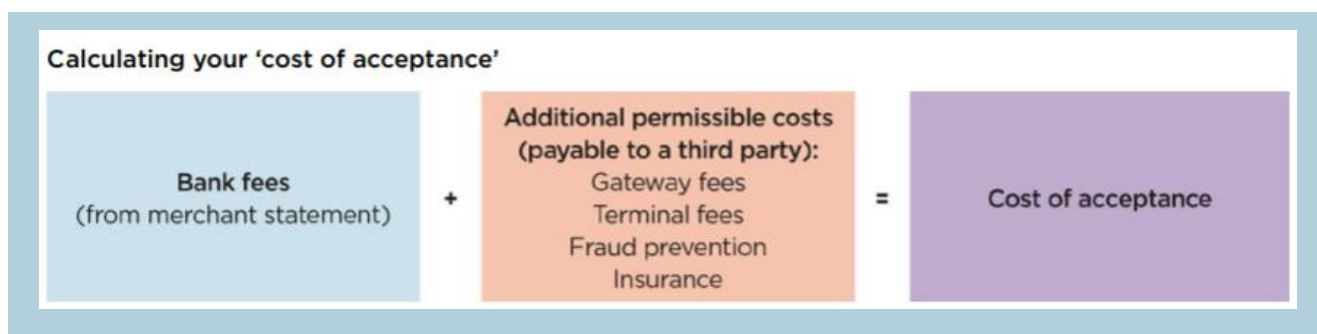
<sup>52</sup> Issued through an Australian financial service provider, rather than directly through American Express. American Express proprietary cards (issued directly by American Express) are not presently covered by the ban. Source: ACCC 2018, Payment surcharges: only charge what it costs you, January, p.1.

From 1 September 2017, all businesses, except taxis, that impose surcharges on card transactions have been required to comply with the prohibitions introduced by the Competition and Consumer Amendment (Payment Surcharges) Act 2016 (Cth). Taxi-specific payment instruments, including Cabcharge, are not designated payment systems under the standard. The RBA excluded the taxi industry from the standard as surcharging in taxis was already regulated by state regulators.<sup>53</sup>

## A surcharge must not exceed the average cost of acceptance

Under the RBA's standard, a merchant's surcharge for a particular type of card should not exceed the average cost of acceptance over the most recent 12 month period for that type of card. For example, if the average cost of acceptance for Visa Credit is 1 per cent then the merchant can only surcharge 1 per cent on Visa credit card payments. Box B.1 shows the allowable cost of acceptance under the RBA standards.

### Box B.1: Cost of acceptance under the standard



Source: ACCC 2018, *Payment surcharges: only charge what it costs you*, January, p.2

### Bank fees

The standard requires the merchant's acquirer (bank) or payment processors to provide an annual statement showing the average cost of acceptance for each payment method. The average cost of acceptance is expressed in percentage terms.

The statement must include:

- merchant service fees paid to an acquirer (bank) or payment processor
- fees paid to an acquirer or payment processor for the rental and maintenance of payment card terminals
- fees paid to an acquirer or payment processors for providing gateway or fraud prevention services

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<sup>53</sup> RBA 2016, *Review of Card Payments Regulation: Conclusions Paper*, May, p. 37.

- any other fees paid to an acquirer or payment processor incurred in processing card transactions, including cross-border transaction fees, switching fees and fraud related chargeback fees.<sup>54</sup>

### **Other allowable costs**

There are other allowable costs paid to third parties but merchants must calculate these costs themselves. These other costs include:

- gateway fees
- the cost of fraud prevention services paid to an external provider
- any fees for the rental or maintenance of card terminals paid to a provider other than the merchant's acquirer or payment processor
- the cost of insuring against forward delivery risk.<sup>55</sup>

These costs must be supported by contracts, statements or invoices.

### **Internal costs are not allowed**

Merchants' internal costs such as labour or electricity costs are not allowed to be recovered via the surcharge.<sup>56</sup>

### **The ACCC is responsible for enforcing the surcharging standard**

Economy-wide concerns over excessive surcharges resulted in the Government giving the Australian Competition and Consumer Commission (ACCC) the power to enforce a ban on excessive surcharges under the Competition and Consumer Amendment Act 2016 (Cth). The ACCC has investigation and enforcement powers on cases of possible excessive surcharging. If the ACCC has reasonable grounds to believe that a merchant has breached the ban, it can issue an infringement notice or take court action against the merchant.

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<sup>54</sup> RBA 2016, Standard No. 3 of 2016: Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions, May, pp.6-9.

<sup>55</sup> RBA 2016, Standard No. 3 of 2016: Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions, May, pp.6-7. RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018); ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2.

<sup>56</sup> RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018); ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2.

## The RBA's guidance on surcharge rates

The RBA acknowledges that merchants have a wide range of payment costs depending on their size and which industry they belong to. But as a guide, the RBA has stated that surcharges could range from 0.5 per cent to 2 percent depending on the type of card used (see table 4.1).

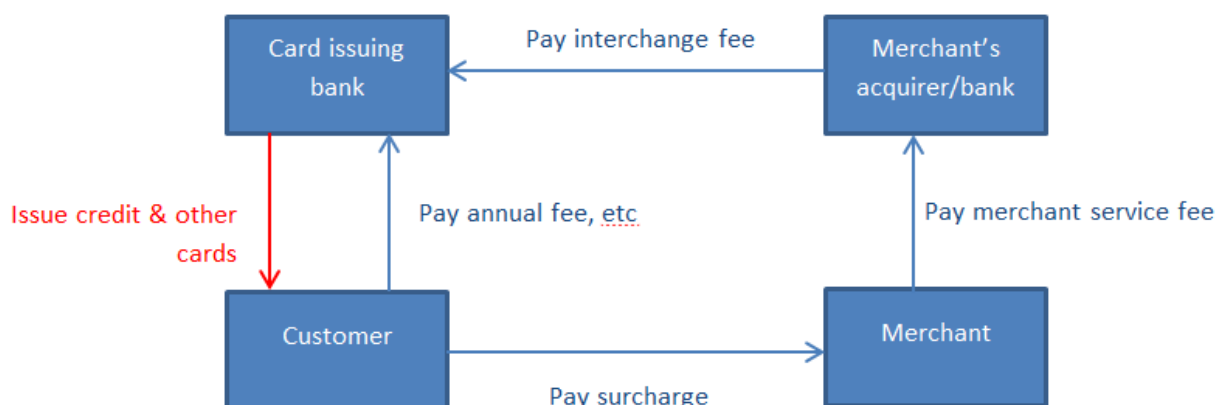
The RBA also notes that in general smaller merchants face higher payment costs than larger merchants and may also have higher costs than the above ranges.

## Interchange fees are also regulated by the RBA

Interchange fees are paid between banks for the acceptance of card-based transactions. The merchant's acquirer or bank pays the customer's bank (the card issuing bank) an interchange fee for each card transaction. The interchange fee is relevant to surcharging because it eventually forms part of the merchant service fee paid by merchants to their acquirer or bank. On a typical credit card transaction the interchange fee makes up roughly 60 per cent of the merchant service fee.<sup>57</sup>

Figure B.1 shows a simple illustration of the flow of payments between customers and merchants. Acquirers/banks pass on the interchange fees they are charged to merchants in merchant service fees.<sup>58</sup> Merchants may then pass merchant service fees on to customers in their non-cash payment surcharges.

Figure B.1: Payment system cash flows



<sup>57</sup> RBA 2018, A Journey Towards a Near Cashless Payments System: <https://www.rba.gov.au/speeches/2018/sp-gov-2018-11-26.html> (accessed on 4 December 2018).

<sup>58</sup> For EFTPOS transactions it is the cardholder's bank which pays the merchant's bank an interchange fee.

Interchange fees are set by card payment schemes such as MasterCard, Visa and American Express. Interchange fees might differ depending on jurisdiction,<sup>59</sup> the type of card used<sup>60</sup> and the type of transaction (e.g. card present or not present, etc.).<sup>61</sup>

While payment systems set interchange fees, the RBA places some limits on the interchange fees that may be charged in Australia. The limits are outlined in the RBA's standards for interchange fees on debit and credit cards.<sup>62</sup> These standards set weighted average benchmarks on interchange fees and also put caps on any individual interchange fee (table B.1).

**Table B.1: Cap on interchange fees, RBA<sup>63</sup>**

Type of card	Weighted average benchmark	Cap on individual interchange fee
Credit card	0.5 per cent	Should not exceed 0.8 per cent
Debit card	8 cents	Should not exceed 15 cents if levied as fixed amount or 0.2 per cent if levied as percentage amount

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<sup>59</sup> RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 7.

<sup>60</sup> RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 6.

<sup>61</sup> RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 20.

<sup>62</sup> RBA 2016, Standard No.1 of 2016: The setting of interchange fees in the designated credit card schemes and net payments to issuers; Standard No.2 of 2016: The setting of interchange fees in the designated debit and prepaid card schemes and net payments to issuers.

<sup>63</sup> RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018).

## Appendix C: Origin of the non-cash payment surcharge

Prior to the Victorian Taxi Industry Inquiry (the inquiry), the non-cash payment surcharge was unregulated. Standard industry practice for taxis was to add a 10 per cent surcharge (excluding GST) for non-cash payment transactions. Following the inquiry the surcharge was regulated and the maximum non-cash payment surcharge (maximum surcharge) amount was set at five per cent (including GST). It has remained at that level to this day.

### **The surcharge was first introduced for processing paper dockets**

Prior to the introduction of electronic payments, taxi booking services provided paper-based (docket) charge account services to corporate and government customers. These services charged a 10 per cent service fee on each docket processed. In 1976 Cabcharge began offering a docket based system that could be used in any capital city in Australia. This service also charged a 10 per cent service fee. Cabcharge rebated a share of its 10 per cent fee to networks. When Cabcharge began processing third-party cards such as American Express, Diners Club and MotorPass in 1982 and bank-issued cards such as Visa, MasterCard and Bankcard in the late 1990s, it extended the 10 per cent service fee to all electronic transactions processed using its facilities.<sup>64</sup> This 10 per cent surcharge became a standard industry practice.

### **The taxi industry inquiry set the maximum surcharge at five per cent**

The surcharge was considered at length by the inquiry.

The inquiry identified a market failure, in that competition between taxi payment processors had failed to lead to reduced costs for customers.<sup>65</sup> It recommended the surcharge should be regulated.

The inquiry found that the 10 per cent surcharge did not reflect the cost of service provision. Up to five per cent of the fee was rebated to operators and drivers as incentive payments. This showed that the cost of providing the service was not more than five per cent.<sup>66</sup> The inquiry recommended that the surcharge be set at a maximum fee that reflected the resource costs of

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<sup>64</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Draft Report, May 2012, p.252.

<sup>65</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Final Report, September 2012, p.208.

<sup>66</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Draft Report, May 2012, pp 258-9.



providing that service, and recommended the maximum surcharge be set at five per cent of transaction value until subject to a further evaluation by the Essential Services Commission.<sup>67</sup>

The maximum regulated surcharge of five per cent took effect in Victoria in 2014. Any non-cash payment surcharge that exceeds the prescribed amount attracts a penalty under the Commercial Passenger Vehicle Industry Act.

### **Other states have followed Victoria's example on the surcharge**

Following the introduction of surcharge regulation in Victoria, action was taken in other jurisdictions to regulate payment surcharges in other Australian states and territories. Currently, only in Tasmania do taxis charge a 10 per cent surcharge for non-cash payment transactions.<sup>68</sup> The other states and territories have a regulated five per cent maximum.

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<sup>67</sup> Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Final Report, September 2012, p.217.

<sup>68</sup> Department of State Growth Transport (accessed on 10 October 2018), <https://www.transport.tas.gov.au/passenger/taxi/fares>

## Appendix D: The legislation governing our role in setting the maximum non-cash payment surcharge

This appendix includes the key sections of the Acts we regulate the non-cash payment surcharge under. The legislation can be found in full online at: <http://www.legislation.vic.gov.au/> .

**Table D.1: Relevant sections of the Commercial Passenger Vehicle Industry Act 2017**

Section detail	
s. 3	<p><b>Definitions</b></p> <p><b>non-cash payment processing device</b> means a device—</p> <ul style="list-style-type: none"><li>(a) used, or intended to be used, to process a non-cash payment transaction; or</li><li>(b) that enables a non-cash payment transaction to be processed;</li></ul> <p><b>Examples</b></p> <p>EFTPOS machine, smartphone, computer tablet.</p> <p><b>non-cash payment processing service</b> means a service that facilitates the processing of a non-cash payment transaction but does not include a service relating to a fee or charge imposed in respect of the use of a credit card, charge card or debit card levied—</p> <ul style="list-style-type: none"><li>(a) by a participant in a designated payment system within the meaning of the Payment Systems (Regulation) Act 1998 of the Commonwealth and is of a kind covered by a standard in force under section 18 of that Act; or</li><li>(b) by a person who acts consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia;</li></ul> <p><b>non-cash payment transaction</b> means the payment, other than by cash, of any amount due in respect of the hiring of a commercial passenger vehicle;</p> <p><b>prescribed amount</b> of a non-cash payment surcharge is—</p> <ul style="list-style-type: none"><li>(a) the maximum amount of the surcharge as determined by the ESC under Division 3 of Part 6; or</li><li>(b) until the first such determination, 5% of the amount that would be payable in respect of the hiring to which the surcharge relates if that amount were paid in cash;</li></ul>

s.112 **Meaning of non-cash payment surcharge**

(1) Subject to subsection (2), a non-cash payment surcharge is a fee or charge—

(a) added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction; or

(b) payable by the owner or driver of a commercial passenger vehicle or by all or any of them because the payment of an amount payable in respect of the hiring of the vehicle is made wholly or partly by means of a non-cash payment transaction.

(2) A non-cash payment surcharge does not include a fee or charge that is imposed in respect of the use of a credit card, charge card or debit card—

(a) by a participant in a designated payment system within the meaning of the Payment Systems (Regulation) Act 1998 of the Commonwealth and is of a kind covered by a standard in force under section 18 of that Act; or

(b) by a person consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia.

(3) A fee or charge may be a non-cash payment surcharge irrespective of whether it is—

(a) payable for accepting or processing, or both accepting and processing, payment made by means of a non-cash payment transaction or for any other reason; or

(b) set as a percentage of the amount otherwise payable in respect of the hiring of the commercial passenger vehicle or as a fixed amount or as an amount fixed on a sliding scale of any kind or on any other basis.

s. 113 **Cap on non-cash payment surcharges**

(1) This section applies to a non-cash payment surcharge that—

(a) exceeds the prescribed amount; or

(b) results in the prescribed amount being exceeded in the circumstances set out in subsection (2).

(2) The circumstances are that the surcharge is added to any other such surcharge charged or collected, or to be charged or collected, by the same or any other person in respect of the same hiring of a commercial passenger vehicle, irrespective of whether the surcharges are payable by the same person or by 2 or more persons.

(3) A person must not—

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## Section detail

(a) impose, whether directly or indirectly, a non-cash payment surcharge to which this section applies; or

(b) directly initiate the collection in the commercial passenger vehicle of a non-cash payment surcharge to which this section applies or of an amount that includes such a surcharge.

Penalty: In the case of an individual, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

### Notes

Section 285 (criminal liability of officers of bodies corporate—failure to exercise due diligence (evidential burden of proof)) applies to an offence against this subsection.

(4) A person does not commit an offence against subsection (3) because of a non-cash payment surcharge charged or collected, or to be charged or collected, by another person in respect of the hiring of a commercial passenger vehicle if—

(a) the person presents or points to evidence that suggests a reasonable possibility that the person did not know, and could not reasonably be expected to have known, that the other person had charged or collected, or was to charge or collect, a non-cash payment surcharge in respect of that hiring; and

(b) the contrary is not proved (beyond reasonable doubt) by the prosecution.

(5) The reference in subsection (3) to a person includes—

(a) any person who provided or maintains any equipment (whether or not installed in the commercial passenger vehicle) or any application or software that enabled the non-cash payment transaction to be made; and

(b) any person who manages or administers the whole or any part of a system under which non-cash payment transactions may be made; and

(c) the owner and driver of the commercial passenger vehicle.

### s.114 **Offence to enter into certain contracts etc.**

(1) A person, including the owner or driver of the commercial passenger vehicle or a booking service provider, must not—

(a) enter into a contract, arrangement or understanding with any person that has the purpose or effect specified in subsection (2); or

(b) agree to give effect to a contract, arrangement or understanding entered into by any other persons that has that purpose or effect.

Penalty: In the case of an individual, 60 penalty units;

## Section detail

In the case of a body corporate, 300 penalty units.

### Note

Section 285 (criminal liability of officers of bodies corporate—failure to exercise due diligence (evidential burden of proof)) applies to an offence against this section.

(2) The purpose or effect is directly or indirectly causing a non-cash payment surcharge to which section 113 applies to be paid in respect of a hiring of a commercial passenger vehicle.

### s.115 **Civil penalties**

(1) The Supreme Court may order that a person pay, as a debt due to the State, a civil penalty of an amount not exceeding \$1 000 000 for an individual or \$5 000 000 for a body corporate.

(2) The Supreme Court may make an order under subsection (1) if satisfied, on an application made by the regulator, that the person has—

(a) contravened section 113(3); or

(b) attempted to contravene section 113(3); or

(c) aided, abetted, counselled or procured a person to contravene section 113(3); or

(d) induced, or attempted to induce, whether by threats, promises or otherwise, a person to contravene section 113(3); or

(e) been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 113(3); or

(f) conspired with others to contravene section 113(3).

(3) The regulator may make an application under this section at any time within 6 years after the contravention or other conduct covered by subsection (2).

(4) The Supreme Court may relieve a person, other than a body corporate, from liability to a civil penalty in a proceeding under this section if it appears to it that—

(a) the person has, or may have, engaged in conduct in contravention of section 113(3) or conduct referred to in subsection (2)(b), (c), (d), (e) or (f) that relates to a contravention of section 113(3); but

(b) the person acted honestly and reasonably and, having regard to all the circumstances of the case, ought fairly to be excused.

### s.116 **Preference must be given to compensation**

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## Section detail

The Supreme Court must give preference to making an order for compensation if it considers that—

- (a) it is appropriate to order a person (the defendant) to pay a civil penalty under section 115(1) in relation to—
  - (i) a contravention of section 113(3); or
  - (ii) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) that relates to a contravention of section 113(3); and
- (b) it is appropriate to order the defendant to pay compensation under section 120 to a person who has suffered loss or damage because of that contravention or conduct; and
- (c) the defendant does not have sufficient financial resources to pay both the civil penalty and the compensation.

### s.117 **Interplay between civil penalties and criminal proceedings**

- (1) An application cannot be made to the Supreme Court under section 115 in relation to a contravention of section 113(3) if the person has been convicted or acquitted of an offence constituted by conduct that is substantially the same as the conduct to which the application relates.
- (2) The Supreme Court must stay a proceeding under section 115 against a person if a criminal proceeding is or has been commenced against the person for an offence constituted by conduct that is substantially the same as the conduct to which the application under that section relates.
- (3) A proceeding stayed in accordance with subsection (2) must be dismissed by the Supreme Court if the person is convicted or acquitted of the offence but otherwise may be resumed by it.
- (4) A criminal proceeding may be commenced against a person for conduct that is substantially the same as conduct to which an application under section 115 relates or in respect of which an order has been made under that section.
- (5) Evidence of information given, or evidence of the production of documents, by a person is not admissible in a proceeding against the person for an offence if—
  - (a) the person previously gave the evidence or produced the documents in a proceeding against the person under section 115; and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct to which the proceeding under that section related.
- (6) Subsection (5) does not apply to a criminal proceeding in respect of the falsity of evidence given in a proceeding under section 115.

### s.118 **Non-cash payment surcharge may be recovered as a debt**

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## Section detail

A person who has paid a non-cash payment surcharge to which section 113 applies may recover, as a debt in any court of competent jurisdiction, the amount of the excess over the prescribed amount from the person to whom the surcharge was payable.

### s.119 **Proceeding for damages**

(1) This section applies if a person suffers loss or damage because of—

(a) conduct engaged in by another person in contravention of section 113(3); or

(b) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 113(3).

(2) The person may recover the amount of the loss or damage in a proceeding commenced against that other person in any court of competent jurisdiction.

(3) A proceeding under subsection (2) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

### s.120 **Compensation orders**

(1) This section applies if a person (the injured person) suffers, or is likely to suffer, loss or damage because of—

(a) conduct engaged in by another person in contravention of section 113(3); or

(b) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 113(3).

(2) The Supreme Court may make any other order or orders that it thinks appropriate against the person who engaged in the conduct on an application made by—

(a) the injured person; or

(b) the regulator on behalf of one or more injured persons.

(3) An order must be an order that the Supreme Court considers will—

(a) compensate the injured person, or any injured person, in whole or in part for the loss or damage; or

(b) prevent or reduce the loss or damage suffered, or likely to be suffered, by the injured person or any injured person.

## Section detail

(4) An application may be made under subsection (2) at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

(5) An application may be made under subsection (2) even if no other proceeding (whether criminal or civil) has been commenced under this Division in relation to the relevant conduct.

(6) The regulator must not make an application under subsection (2)(b) on behalf of an injured person who has not consented in writing to the making of the application on their behalf.

### s. 121 **Application of Essential Services Commission Act 2001**

(1) For the purposes of the **Essential Services Commission Act 2001**—

(a) this Division is relevant legislation; and

(b) the non-cash payment transaction industry is a regulated industry.

(2) If there is any inconsistency between a provision of this Division and a provision of the **Essential Services Commission Act 2001**, the provision of this Division prevails.

### s. 122 **Objective of the ESC**

(1) The objective of the ESC in relation to the noncash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge.

(2) In seeking to achieve the objective specified in subsection (1), the ESC must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.

(3) In this section—

**reasonable cost** includes any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards.

### s. 123 **Powers in relation to non-cash payment service regulation**

For the purposes of Part 3 of the Essential Services Commission Act 2001—

(a) non-cash payment transactions are prescribed services; and

(b) the maximum amounts of non-cash payment surcharges are prescribed prices.

### s. 124 **Exercise of regulatory functions**

(1) The ESC may regulate prescribed prices by determining different prices

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## Section detail

according to circumstances specified in the determination if it considers it necessary to do so in order for it to comply with section 122(2).

(2) Subsection (1) does not limit section 33(5) of the Essential Services Commission Act 2001.

(3) The ESC must make a price determination no later than 12 months after the day on which section 18 of the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017 comes into operation.

(4) The ESC must complete a review of a price determination no later than 2 years after it is made.

Schedule 2, s.25 **Subject matter for regulations**

### **Non-cash payment surcharges**

25. The keeping by persons who provide services for processing non-cash payment surcharges of records of, or relating to, the following—

- (a) non-cash payment surcharges charged or collected by persons using the services;
- (b) the operation and programming of equipment that enables non-cash payment transactions to be made;
- (c) the retention and storage of information, data and electronic communications relating to non-cash payment surcharges;
- (d) the structure of, setting of and receipt of non-cash payment surcharges;
- (e) commercial arrangements supporting non-cash payment surcharges.

**Table D.2: Relevant sections of the Essential Services Commission Act 2001**

## Section detail

### s. 8 (1) **Objective of the Commission**

In performing its functions and exercising its powers, the objective of the Commission is to promote the long term interests of Victorian consumers.

s. 8 (2) Without derogating from subsection (1), in performing its functions and exercising its powers in relation to essential services, the Commission must in seeking to achieve the objective specified in subsection (1) have regard to the price, quality and reliability of essential services.

### s. 8A (1) **Matters the Commission must have regard to**

Appendix D: The legislation governing our role in setting the maximum non-cash payment surcharge

## Section detail

In seeking to achieve the objective specified in section 8, the Commission must have regard to the following matters to the extent that they are relevant in any particular case—

- (a) efficiency in the industry and incentives for long term investment;
- (b) the financial viability of the industry;
- (c) the degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries;
- (d) the relevant health, safety, environmental and social legislation applying to the industry;
- (e) the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for—
  - (i) consumers and users of products or services (including low income and vulnerable consumers);
  - (ii) regulated entities;
- (f) consistency in regulation between States and on a national basis;
- (g) any matters specified in the empowering instrument.

- s. 8A (2) Without derogating from section 8 or subsection (1), the Commission must also when performing its functions and exercising its powers in relation to a regulated industry do so in a manner that the Commission considers best achieves any objectives specified in the empowering instrument.

### S.32 **Price Regulation**

The Commission may regulate prescribed prices for or in respect of prescribed goods and services supplied by or within a regulated industry.

- S.32(2) In this section –

**prescribed goods and services** means any goods or services made, produced or supplied by or within a regulated industry which goods or services are specified in the empowering instrument as being goods or services in respect of which the Commission has power to regulate prices;

**prescribed price** means the price or price-range however designated for the supply or sale of any goods or services by or within a regulated industry or particular factors used in price-fixing or terms and conditions relating to the price at which particular goods or services are supplied or sold, being a price, price-range, factor or term and condition specified in the empowering instrument as being a price, price-range, factor or term and condition which the Commission has power to regulate.

### S.33(1) **Price determinations**

(1) This section is subject to anything to the contrary in the empowering instrument specifying the prescribed prices or prescribed goods and services in respect of which the Commission is exercising its power of regulation.

- S.33(2) In making a price determination, the Commission must adopt an approach and

## Section detail

methodology which the Commission considers will best meet the objectives specified in this Act and any relevant legislation.

- s. 33(3) In making a determination under this section, the Commission must have regard to—
- (a) the particular circumstances of the regulated industry and the prescribed goods and services for which the determination is being made;
  - (b) the efficient costs of producing or supplying regulated goods or services and of complying with relevant legislation and relevant health, safety, environmental and social legislation applying to the regulated industry;
  - (c) the return on assets in the regulated industry;
  - (d) any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;
  - (e) any other factors that the Commission considers relevant.
- s. 33(4) In making a determination under this section, the Commission must ensure that—
- (a) the expected costs of the proposed regulation do not exceed the expected benefits; and
  - (b) the determination takes into account and clearly articulates any trade-offs between costs and service standards
- s. 33(5) A price determination by the Commission may regulate a prescribed price for prescribed goods and services in any manner the Commission considers appropriate.
- s. 33(6) Without limiting the generality of subsection (5), the manner may include—
- (a) fixing the price or the rate of increase or decrease in the price;
  - (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in the maximum price;
  - (c) fixing an average price for specified goods or services or an average rate of increase or decrease in the average price;
  - (d) specifying pricing policies or principles;
  - (e) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
  - (f) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the rate or supply of the goods or services;
  - (g) fixing a maximum average revenue or maximum rate of increase or minimum rate of decrease in the maximum average revenue in relation to specified goods or services;
  - (h) monitoring the price levels of specified goods and services.

## Collection and use of information

### s.36 Application of this Part

Subject to any provisions to the contrary in any relevant legislation, this Part

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## Section detail

applies to or in respect of any information or document that is provided to the Commission.

### S.36A **Commission must have regard to certain matters**

In exercising the powers conferred on the Commission under this Part, the Commission must have regard to—

- (a) the relevance of the information or document; and
- (b) the estimated compliance costs.

### S.37 **General power to obtain information and documents**

(1) If the Commission considers that it is necessary to do so for the purposes of performing its functions or exercising its powers, the Commission may require a person that the Commission has reason to believe has any relevant information or document to provide that information or document to the Commission.

(1A) For the purposes of subsection (1), the Commission may require the person to appear before the Commission to provide the information or document.

(2) A requirement must be made in a written notice specifying—

- (a) the information or document required; and
- (b) the period of time within which the requirement must be complied with; and
- (c) the form in which the information or copy of the document is to be given to the Commission; and
- (ca) whether or not the person is required to appear before the Commission; and
- (d) that the requirement is made under this section.

(3) The notice must include a copy of this Part.

(4) A person who without lawful excuse fails to comply with any requirement made under this section in a notice given to the person is guilty of an offence.

Penalty: 120 penalty units.

(5) It is a lawful excuse for the purposes of subsection (4) that compliance may tend to incriminate the person or make the person liable to a penalty for any other offence.

(6) A person must not, in purported compliance with a requirement, knowingly give the Commission information that is false or misleading.

Penalty: 120 penalty units or imprisonment for 6 months.

(7) A person must not—

- (a) threaten, intimidate or coerce another person; or
- (b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage— because that other person complied, or intends to comply, with a requirement made under this section.

Penalty: 120 penalty units.

## Section detail

(8) A person is not liable in any way for any loss, damage or injury suffered by another person because of the giving in good faith of any information or a document to the Commission under this section.

### S.37A **Provision of information relating to regulated Entities**

(1) A regulated entity must provide information relating to the regulated entity requested by the Commission by written notice to the Commission in the manner and form specified in the notice.

(2) If information relating to a regulated entity is held by a third party, the Commission may require the regulated entity to enter into an arrangement with the third party under which the third party is to provide the information to the Commission.

(3) The Commission may specify the kind or class of information which a regulated entity must maintain for the purposes of this section in a Code of Practice.

### S.38 **Restriction on disclosure of confidential information**

(1) This section applies if—

(a) information or a document is given to the Commission under—

(i) section 37, 37A or 51; or

(ii) section 212E of the Accident Towing Services Act 2007; and

(b) at the time the information or document is given, the person giving it states that it is of a confidential or commercially-sensitive nature.

(1A) Before the Commission makes a decision under subsection (2), the Commission must—

(a) give the person giving the information or document an opportunity to make a submission to the Commission specifying—

(i) why the information or document is of a confidential or commercially sensitive nature; and

(ii) the detriment that would be caused by the disclosure of the information or document; and

(b) consider any submission made by that person.

(2) The Commission must not disclose the information or the contents of the document to any person unless—

(a) the Commission is of the opinion—

(i) that the disclosure of the information or document would not cause detriment to the person supplying it; or

(ii) that although the disclosure of the information or document would cause detriment to the person supplying it, the public benefit in disclosing it outweighs that detriment; and

(b) the Commission is of the opinion, in relation to any other person who is aware of the information or the contents of the document and who might be detrimentally affected by the disclosure—

## Section detail

- (i) that the disclosure of the information or document would not cause detriment to that person; or
  - (ii) that although the disclosure of the information or document would cause detriment to that person, the public benefit in disclosing it outweighs that detriment; and
- (c) the Commission gives the person who supplied the information or document a written notice—
- (i) stating that the Commission wishes to disclose the information or contents of the document, specifying the nature of the intended disclosure and setting out detailed reasons why the Commission wishes to make the disclosure; and
  - (ii) stating that the Commission is of the opinion required by paragraph (a) and setting out detailed reasons why it is of that opinion; and
  - (iii) setting out a copy of this section and section 55, and as the case requires, section 45 of this Act or section 212F of the Accident Towing Services Act 2007; and
- (d) if the Commission is aware that the person who supplied the information or document in turn received the information or document from another person and is aware of that other person's identity and address, the Commission gives that other person a written notice—
- (i) containing the details required by paragraph (c); and
  - (ii) stating that the Commission is of the opinion required by paragraph (b) in relation to him, her or it and setting out detailed reasons why it is of that opinion; and
- (e) no notice of appeal is lodged in respect of any notice given under paragraph (c) or (d) within the time permitted by section 55(3).

Penalty: 120 penalty units.

- (3) Subsection (2) does not prevent the Commission—
- (a) from disclosing information or the contents of a document to—
    - (i) an employee employed under section 24(1); or
    - (ii) a member of staff referred to in section 24(2); or
    - (iii) a consultant engaged under section 25; or
    - (iv) a member of a Division, committee or panel acting under a delegation under section 26; or
  - (b) from using information or a document for the purposes of an inquiry or investigation; or
  - (c) from disclosing information or the contents of a document to the Minister in a report prepared in the form required by section 45(2) of this Act or section 212F(2) of the Accident Towing Services Act 2007; or
  - (d) from supplying the information or document to the members of any appeal panel hearing an appeal in relation to the information or document.
- (4) If an appeal is lodged under section 55 and the appeal—
- (a) is withdrawn or dismissed, the Commission may disclose any information, or the contents of any document, that was the subject of the appeal in the manner set out in the notice given under subsection (2)(c);
  - (b) is granted, the Commission may disclose anything that the appeal panel permits it to disclose under section 56(7)(b)(ii) in the manner specified by the appeal panel.

## Section detail

(5) For the purposes of this section, the disclosure of anything that is already in the public domain at the time the Commission wishes to disclose it can not cause detriment to any person referred to in subsection (2)(a) or (2)(b).

### S.39 **Commission must not disclose exempt freedom of information documents**

(1) The Commission must not disclose to any person any document that it has obtained from any agency (as defined in the Freedom of Information Act 1982) or Minister that is an exempt document under the Freedom of Information Act 1982 in the hands of the agency or Minister.

(2) Subsection (1) does not prevent the Commission from doing anything specified in section 38(3).

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# Appendix E: Records to be kept on non-cash payment surcharges

Under the Commercial Passenger Vehicle Industry Act 2017<sup>69</sup> and the Commercial Passenger Vehicle Industry Regulations 2018, persons who provide services that facilitate the processing of a non-cash payment transaction are required to keep records.

Section 36 of the Commercial Passenger Vehicle Industry Regulations 2018 sets out in detail the records to be kept for non-cash payment surcharges (see table E.1). The records must be kept for a period of at least 3 years.

If you have questions in relation to these requirements, you should contact Commercial Passenger Vehicles Victoria, which is responsible for the implementation of the Commercial Passenger Vehicle Industry Regulations 2018.

**Table E.1: Records to be kept for non-cash payment surcharges**

Section detail	
s. 36	<p><b>Records to be kept for non-cash payment surcharges</b></p> <p>(1) This regulation applies to a person who provides a relevant service that facilitates the processing of a non-cash payment transaction that is a payment of an amount that includes a non-cash payment surcharge (a relevant transaction).</p> <p>(2) A person to whom this regulation applies must keep records sufficient to identify—</p> <p>(a) in respect of each relevant transaction facilitated by the relevant service—</p> <ul style="list-style-type: none"><li>(i) the amount of the non-cash payment surcharge; and</li><li>(ii) the amount that would have been payable by the hirer in respect of the hiring to which the transaction relates if the hiring had been paid for in cash; and</li><li>(iii) the date on which the transaction was processed; and</li></ul> <p>(b) in respect of each day on which the relevant service facilitated the processing of a relevant transaction—</p> <ul style="list-style-type: none"><li>(i) the total amount of the non-cash payment surcharges that were added to the relevant transactions on that day; and</li><li>(ii) the total amount that would have been payable if the relevant transactions on that day were instead paid for in cash; and</li></ul>

<sup>69</sup> Commercial Passenger Vehicle Industry Act 2017, schedule 2, section 25.



## Section detail

- (c) in respect of each non-cash payment processing device supplied by the person or used to process a relevant transaction—
- (i) if the device is programmed to add a non-cash payment surcharge that is a fixed amount, the amount of that surcharge; and
  - (ii) if the device is programmed to add a non-cash payment surcharge that is not a fixed amount, the basis on which the amount of the surcharge is determined; and
  - (iii) any day on which the programming of the device is set or changed—
    - (A) to make the device add a non-cash payment surcharge; or
    - (B) to change the amount the device adds as a non-cash payment surcharge; and
  - (iv) each commercial passenger vehicle in relation to which the device is used; and
  - (v) the periods during which the device is used in relation to each commercial passenger vehicle; and
  - (vi) if the device is supplied by the person—
    - (A) each person to whom the device is supplied; and
    - (B) the period during which the device is supplied to that person.

(3) A person to whom this regulation applies must keep the records required under subregulation (2) for a period of at least 3 years after the last entries in the records are made.

Penalty: 10 penalty units.

(4) In this regulation — relevant service means a non-cash payment processing service within the meaning of section 3(1) of the Act.

### Note

The Electronic Transactions (Victoria) Act 2000 provides that a requirement to keep written records is taken to have been met if the person records information in electronic form.

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# Glossary

Term	Definition
<b>Australian Competition and Consumer Commission</b>	<p>The ACCC is an independent Commonwealth statutory authority whose role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation.</p> <p>The ACCC is responsible for enforcing the ban on excessive surcharging on credit, debit and prepaid card payments, under the Competition and Consumer Act 2010.</p>
<b>Acquirer</b>	An institution that provides a merchant with facilities to accept card payments.
<b>Booked services</b>	Booked services are trips booked via an application, or over the phone or website.
<b>Booking service provider</b>	A person, company or association who provides a service that reserves CPVs to transport passengers at a certain time, departure point, and destination. Previously called network service provider.
<b>Cabcharge Australia Ltd</b>	<p>Cabcharge is an Australian company listed on the ASX specialising in personal transport services and digital payment software. Its clients include corporate clients, passengers, drivers and booking service providers.</p> <p>Cabcharge also owns and operates 13cabs, Australia's largest booking service provider, which supports over 9000 taxis across Australia.</p>
<b>Cardholder</b>	Individual who owns and uses a card in paying for goods and services. In the supply chain, a cardholder is the consumer.
<b>Commercial Passenger Vehicle (CPV)</b>	Any motor vehicle used or intended to be used for carrying passengers for hire or reward, excluding a bus used to provide a bus service.
<b>Commercial Passenger Vehicles Victoria</b>	Commercial Passenger Vehicles Victoria, formerly the Taxi Services Commission, is the new regulator of the commercial passenger vehicle industry.
<b>Charge back</b>	This is when the acquirer removes/holds the funds of a disputed transaction. For example a merchant makes a sale of \$20, one month later

	the customer disputes the transaction and claims the credit card was stolen. The acquirer will remove the \$20 from the merchant's account and apply a charge back fee. A charge back fee is usually charged at a premium.
<b>Charge card</b>	It is a card whose holder has been granted a non-revolving credit line enabling the cardholder to make purchases and possibly make cash advances. A charge card does not offer extended credit; the full amount of any debt incurred must be settled at the end of a specified period.
<b>Clearing</b>	The process of transmitting, reconciling and in some cases confirming payment instructions prior to settlement.
<b>Credit card</b>	It is a card whose holder has been granted a revolving credit line enabling the cardholder to make purchases and/or cash advances up to a pre-arranged limit. The credit granted can be settled in full by the end of a specified period or in part, with the balance taken as extended credit. Interest may be charged on the transaction amounts from the date of each transaction or only on the extended credit where the credit granted has not been settled in full.
<b>Debit card</b>	Debit card is a card that enables the holder to access funds in a deposit account at an authorised deposit-taking institution.
<b>Direct debit</b>	A pre-authorized debit on the payer's (cardholder) bank account initiated by the recipient (merchant).
<b>EFTPOS</b>	Electronic funds transfer at point of sale. The eftpos system is a domestic debit card system managed by eftpos Payments Australia Limited.
<b>Financial institution</b>	A company whose primary function is to intermediate between lenders and borrowers in the economy.
<b>Interchange fee</b>	A fee paid between card issuers and acquirers when cardholders make transactions.
<b>Issuer</b>	An institution that provides its customers with debit or credit cards.
<b>Meter</b>	A mechanical, electrical or electronic device that calculates, records or displays information about fares and charges for the provision of unbooked commercial passenger vehicle

	services. Commercial Passenger Vehicles Victoria is responsible for specifying the functional requirements of fare devices.
<b>Merchant</b>	Person or business that accepts a card for payment for goods or services.
<b>Merchant service fee</b>	A transaction-based fee charged to a merchant by an acquirer for acquiring, or by a payment processor for arranging the acquisition of, one or more types of card transactions from that merchant.
<b>Multi Purpose Taxi Program (MPTP)</b>	A government program that subsidises taxi fares for people with severe and permanent disabilities. MPTP members receive a 50 per cent subsidy on taxi fares up to a maximum of \$60 per trip and \$2180 per year. Some MPTP members, for example those using wheelchairs, are exempt from the annual cap.
<b>Non-cash payment surcharge</b>	<p>A non-cash payment surcharge is a fee or charge:</p> <ul style="list-style-type: none"> <li>• added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction; or</li> <li>• payable by the owner or driver of a commercial passenger vehicle or by all or any of them because the payment of an amount payable in respect of the hiring of the vehicle is made wholly or partly by means of a non-cash payment transaction.</li> </ul>
<b>Payment processor</b>	An entity that is not a related entity of the merchant that provides services and/or equipment to the merchant in connection with, the acceptance by that merchant of cards for payment for goods or services.
<b>Payment terminal</b>	<p>Refers to the terminal or facility provided by banks to merchants to enable the latter to accept payments by cards.</p> <p>In the taxi industry, payment processors supply the payment terminal to drivers, booking service</p>

	providers or taxi operators.
<b>Payment system</b>	Refers to arrangements which allow consumers, businesses and other organisations to transfer funds usually held in an account at a financial institution to one another. It includes payment instruments like cash, cards, cheques and electronic fund transfers which customers use to make payments, and the unseen arrangements that ensure funds move from accounts at one financial institution to another.
<b>Price determination</b>	A price determination is the legislative instrument the commission uses to set prescribed prices for prescribed goods and services.
<b>Reserve Bank of Australia</b>	<p>The RBA is Australia's central bank. It determines and implements monetary policy, fosters financial stability, undertakes a range of activities in financial markets, acts as a banker to the Australian Government, issues Australia's banknotes and has policy, supervisory and operational roles in the payments system.</p> <p>The RBA sets interchange fees in designated debit, prepaid and credit card schemes. It also regulates merchant surcharging for credit, debit and prepaid card transactions in Australia.</p>
<b>Rideshare services</b>	Booked commercial passenger vehicle services that use the driver's personal vehicle to provide a transport service. These services are offered to passengers through an accredited booking service: generally a smartphone application.
<b>Scheme (or card scheme)</b>	<p>Under the RBA's standards, scheme refers to the following designated payment systems:</p> <ul style="list-style-type: none"> <li>• MasterCard system</li> <li>• VISA system</li> <li>• American Express Companion Card system</li> <li>• Visa Debit system</li> <li>• Debit Mastercard system</li> <li>• EFTPOS system</li> <li>• EFTPOS Prepaid system</li> <li>• Mastercard Prepaid system</li> <li>• Visa Prepaid system.</li> </ul>
<b>Smartphone booking apps</b>	Smartphone booking applications that connect CPV drivers with passengers through a booking

	interface. Some smartphone apps include both booking and payment processing functionalities. App providers include 13CABS, GoCatch, Ingogo, Ola, Scooti, Sheba, Silver Top Taxis, Taxify and Uber.
<b>Taxi</b>	Taxis are commercial passenger vehicles that provide booked and unbooked services.
<b>Taxi network</b>	A provider of taxi booking and dispatch services, connecting passengers with taxi drivers through a booking service. Also referred to as booking service provider or network service provider.
<b>Taxi Services Commission (TSC)</b>	The TSC was responsible for regulation of the commercial passenger vehicle industry until 2 July 2018. The TSC was established on 1 July 2013 as the independent industry regulator as part of the Taxi Industry Inquiry’s recommended reforms. Effective 2 July 2018, the TSC has been replaced with Commercial Passenger Vehicles Victoria as the industry regulator.
<b>The Commission</b>	<p>The Essential Services Commission — Victoria’s independent economic regulator of certain prescribed services as determined by the Victorian Government. The commission is responsible for setting maximum:</p> <ul style="list-style-type: none"> <li>• charges for unbooked CPV services beginning in the metropolitan and urban zones</li> <li>• non-cash payment surcharge for booked and unbooked services in Victoria.</li> </ul>
<b>Unbooked services</b>	Unbooked services are CPV services that are provided other than as a result of the provision of a booking service. They include trips hailed from the street, hired from a recognised taxi rank or trips that have not been booked via an application, over the phone or website.