

# Merchant Card Payment Costs and Surcharging

**ACCI Submission**

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# Executive summary

The Australian Chamber of Commerce and Industry (ACCI) welcomes the Reserve Bank of Australia (RBA) examining the cost of card payment fees for merchants and other issues through the Merchant Card Payment Costs and Surcharging – Issues Paper (the issues paper).

As a peak industry association representing businesses of all sizes, ACCI is in a unique position to comment on the impacts of the card payment system on all businesses, including for small businesses and larger businesses, and how it can be improved for all who use it.

ACCI believes in a payment system that is fair, transparent, and innovative, prioritising user choice while putting merchants and their customers at its core.

Unfortunately, the existing payment system fosters inequity. This inequity extends to consumers, who are lulled or forced into incurring additional and unnecessary payments for their goods and services on account of the convenience of card, mobile wallet or online transactions. It also extends to small business merchants, and to a greater degree than larger businesses.

For example, small businesses face significantly higher merchant service fees compared to those incurred by larger businesses. There are a range of reasons attributed to this, including the volume of payments made. However, we do not believe it is appropriate for smaller businesses to face higher fees than their larger counterparts – who are often their more advantaged competitors.

We know that financial viability is a key pressure that small businesses face. According to an ACCI survey conducted earlier this year, it is the greatest pressure small businesses are experiencing.<sup>1</sup> Any assistance in alleviating the costs incurred by small businesses is thoroughly welcomed by ACCI and its members. We also recognise that consumers more broadly are facing significant cost of living challenges, and measures explored through the issues paper can play a role in alleviating these.

Noting these issues, it is important that merchant card payment costs are reduced. ACCI supports greater transparency for merchants and consumers regarding fees and costs incurred from both Payment Service Providers (PSPs) and card schemes, which we believe is a key lever to reducing merchant card payment costs. Shedding light on the varied payment structures and fees applied to all merchants, particularly small businesses, will enable them to assess the best arrangements for their business, should they wish to undertake this research, and will introduce more competitive pressure into the market to drive down prices for both merchants and consumers.

However, we do not believe that limiting merchants' ability to apply surcharges is a necessary aspect of reducing costs of card payments. While a surcharge ban may be popular for consumers, such action will restrict the ability for many merchants to recover reasonable costs incurred by card payment fees. We believe that introducing more transparency and mandating proven cost reducing measures, such as least-cost routing (LCR), will have the effect of lowering fees and ultimately, will lead to a lesser need for merchants to surcharge at the same level.

We are aware that the payments system is an intricate infrastructure with many working parts and players. It affects every business and every Australian in some way or another. Any changes, minor or major, will likely have a flow on effect on another aspect of the system. Accordingly, despite the need to address significant inequalities within the system, changes must proceed with caution. Any significant changes have the potential to disrupt the entire system and may very well have unintended consequences.

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<sup>1</sup> ACCI (2024), [2024 Small Business Conditions Survey](#), 21 July 2024, pg.7.

Noting this, our submission outlines suggestions on how card payment costs can be reduced and, to this end, makes the following recommendations:

#### **Interchange fees:**

- Eliminate the ability for greater interchange fees being applied to smaller merchants than to larger businesses by reducing interchange benchmarks for all debit card payment types.
- The benefits of lower interchange fees must be passed along to merchants. Penalties should be implemented for those who do not do so.
- The Australian Competition and Consumer Commission (ACCC), in conjunction with the Reserve Bank of Australia (RBA), must be empowered to monitor anti-competitive behaviour regarding interchange fees and take appropriate action if such behaviour occurs.
- Card networks should be required to publish aggregate data on average interchange fees, in addition to interchange fee schedules. They should also be required to provide direct and regular reports to merchants on their specific incurred fees.

#### **Scheme fees:**

- The ACCC should be tasked with investigating whether card scheme programs deliver competitive outcomes for consumers and merchants, whether these practices should be subject to regulation and, if so, what that should look like.
- Card networks should be required to publish data on scheme fees. They should also be required to provide direct and regular reports to merchants on their specific incurred fees.
- Other measures such as mandating least-cost routing (LCR) and maintaining the ability to surcharge must occur.

#### **Least-cost routing (LCR):**

- Mandate LCR for all debit card transactions, including in-person card-present payments, as well as mobile wallet and online transactions. This must be coupled with support for businesses to identify where LCR is available and if it can be enabled, as well as if it will provide a benefit for their business.
- The ACCC must be empowered to monitor the implementation of a LCR mandate and enforce such implementation.
- Consider a mandate for dynamic LCR.

#### **Transparency of merchant service fees:**

- Require increased transparency around merchant service fees, including what fees apply for a transaction, whether it is the best option for a merchant, and if one form of payment should be favoured over another.

- Merchant service fee data must be published in a useable way and updated regularly to drive competition across the payments system. The best way to collect and display this data must be determined.

#### **Surcharging:**

- Do not restrict the ability for businesses, especially small businesses, to apply a surcharge to recoup fees incurred through payment processing.
- Provide greater resourcing to the ACCC to investigate and take appropriate action against excessive surcharging.

#### **Other matters:**

- Increase awareness of various fees associated with card payments amongst merchants and consumers. This should include the different types of payments available, and the usual higher and lower cost options.

# Introduction

We welcome the Reserve Bank of Australia (RBA) examining the cost of card payment fees for merchants and other issues through the Merchant Card Payment Costs and Surcharging – Issues Paper (the issues paper). We note that some of these topics have been the subject of previous reviews, such as over 2019-2021, to which ACCI provided a response.

ACCI supports greater transparency for merchants and consumers regarding fees and costs incurred from both PSPs and card networks. Greater transparency will enable merchants and consumers to assess the best arrangements for them and will introduce more competitive pressure into the market to drive down prices for both merchants and consumers.

However, we do not support the elimination or restriction of a merchant's ability to surcharge to recover reasonable costs incurred through accepting debit card payments. We believe that the adverse impacts of this regulatory action will far outweigh the benefits, particularly for merchants, and these consequences will extend to consumers in a range of ways.

While it does not necessarily reflect the importance of the issues for ACCI members, this submission adopts the same structure as the RBA's issues paper in addressing the above issues and makes a range of reasonable recommendations to improve the debit card payments system.

## Interchange fees

Interchange fees are paid by the merchant's PSP to the customer's card issuer when a card payment is made, with the PSP passing on these costs to the merchant.<sup>2</sup> The RBA has set caps and weighted-average benchmarks for interchange fees; however, these fees have grown increasingly complicated over time, making them difficult to capture and track. Further, they are often different for the different types of card payments.

We welcome the consideration of lowering interchange benchmarks – currently with an average weighting of around 8 cents – discussed in the issues paper, which hypothesises that lower interchange fees should lead to lower card payment costs for merchants.<sup>3</sup> If interchange benchmarks are lowered, there should be a requirement that these lower interchange fees be passed along to merchants, and penalties should be introduced for those who do not pass along the reduced costs. Often, interchange fees (and other merchant service fees) are significantly higher for small businesses than for larger businesses.<sup>4</sup> There are several reasons which tend to be attributed to this discrepancy, including volume – larger businesses often receive volumetric discounts on account of their higher use of the payment services. In other circumstances, smaller businesses are unable to negotiate lower fees due to complexity of the fee system structure, or due to their lack of market leverage.

Expecting smaller businesses to incur costs that are not equal nor proportionate to that of their larger counterparts is unacceptable. Even if, as the issues paper notes, Australia's interchange fees for debit

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<sup>2</sup> Issues paper, pg.10.

<sup>3</sup> Ibid, pg.11.

<sup>4</sup> Ibid, pg.10.

card transactions are similar to that of other countries,<sup>5</sup> it remains unacceptable that smaller businesses endure significantly higher interchange fees than larger businesses.

Small businesses are more susceptible to changing economic headwinds than larger businesses and we believe that expecting them to subsidise large businesses does not meet community expectations. In lieu of any evidence to suggest that there are greater costs incurred for processing payments for small businesses compared to larger businesses,<sup>6</sup> the fee discrepancies must be eliminated. To eliminate this gap, we believe that PSPs should be required to close it through regulatory action.

Given the above, ACCI would welcome regulatory change to ensure that smaller merchants are not forced or expected to pay higher interchange fees than larger businesses.

We understand that it may be possible that any restrictions on the ability for PSPs to recoup costs paid to the card issuer may result in new or standardised fees being introduced. For example, it may lead to an annual or monthly fee for merchants to use a particular PSP service, which could initially be unregulated and inequitably applied across merchants as fees are now. This may be a low-risk possibility given it would require all PSPs to implement such a fee to be effective, but it is a consequence that has been raised with ACCI.

To reduce the possibility of this behaviour occurring, the Australian Competition and Consumer Commission (ACCC), relying on the data reported to and in conjunction with the RBA, must be empowered to monitor such anti-competitive activities and take action where warranted.

## Reduction of complexity and enhancing transparency

The issues paper identifies a range of new and evolving categories of interchange fees,<sup>7</sup> which have contributed to an already complicated element of the card payments framework.

The complexities and opaque nature of interchange fees mean that merchants are unable to compare or assess whether they are being charged a fair amount for the services delivered by their elected PSP, particularly if on an unblended plan, where the merchant is charged the wholesale cost of each transaction plus an acquirer margin. The existing interchange fee system reduces competition amongst PSPs and does not facilitate a reduction of card payment fees overall.

ACCI is supportive of increased transparency of interchange fee data. This should occur through the publication of average interchange fees as a minimum in a similar manner as LCR data is made available. Currently, to provide greater transparency on the extent to which providers are supporting LCR, the RBA publishes data on LCR availability and enablement across the major acquirers for card-present and card-not-present, or online, transactions. This is typically updated every six months. However, given the evolving nature of interchange fees, it may be appropriate for this data to be made more frequently available. We support card networks being required to publish aggregate data on the average interchange fees, in addition to interchange fee schedules.

ACCI would welcome requirements for direct and regular reporting directly to merchants on specific interchange fees they incur, also.

Even if merchants or consumers do not access this information, making it publicly available will increase transparency and will empower them to educate themselves further, to identify better opportunities for their business where they may exist.

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<sup>5</sup> Issues paper, pg.11.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid, pg.12.



### Recommendations:

- Eliminate the ability for greater interchange fees being applied to smaller merchants than to larger businesses by reducing interchange benchmarks for all debit card payment types.
- The benefits of lower interchange fees must be passed along to merchants. Penalties should be implemented for those who do not do so.
- The ACCC, in conjunction with the RBA, must be empowered to monitor anti-competitive behaviour regarding interchange fees and take appropriate action if such behaviour occurs.
- Card networks should be required to publish aggregate data on average interchange fees, in addition to interchange fee schedules. They should also be required to provide direct and regular reports to merchants on their specific incurred fees.

## Scheme fees

Scheme fees are charged by card schemes, namely Visa, Mastercard and eftpos, to acquirers and issuers for the services they provide. They are a key component of the overall costs faced by merchants to accept card payments – around one-fifth of total card payment costs.<sup>8</sup> Ultimately, the costs are passed on to merchants and consumers. The issues paper identifies that scheme fees have risen over time, which continues to put upward pressure on card payment costs for merchants.

There is also considerable variation in scheme fees between different card networks. However, in a similar manner to other elements of the payments system, scheme fee schedules are often complex and hard to decipher, making it difficult to identify the lowest cost option. An added level of complexity when it comes to scheme fees is that they are currently not directly regulated in Australia.<sup>9</sup>

Encouraging consumers to take up a particular scheme can be a very competitive market between the schemes themselves, but this does not necessarily result in positive, lower-cost outcomes for consumers, nor does it deliver benefits for merchants.

One of the more popular methods to sign up consumers currently is through a points accrual partnership or program, for example for frequent flight points or similar rewards program. These arrangements encourage customers to sign up to and use the scheme for a minimum period to receive the 'benefits', and then remain with the scheme, move to another, or add a scheme to their collection. The benefits, which are usually non-financial, often come at the expense of higher fees for consumers and for merchants.

Given the increase of scheme fees and the complex nature of their structures, it may be appropriate to consider asking the ACCC to investigate whether these schemes actually deliver competitive outcomes for consumers and merchants, or if they have an adverse outcome. The ACCC may then be able to identify whether these practices should be subject to regulation and, if so, what that should look like.

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<sup>8</sup> Issues paper, pg.14.

<sup>9</sup> Reserve Bank of Australia (n.d.), [Backgrounder on Interchange and Scheme Fees](#).

## Transparency of scheme fees

ACCI is supportive of increased transparency of scheme fee data. Transparency is important to ensure merchants – and customers – are making informed decisions about where and how they make payments. It will also support competition and assist with lowering scheme fees as they continue to grow. As is the case for interchange fees, ACCI would welcome requirements for direct and regular reporting to merchants on relevant scheme fees they incur, also.

Again, even if merchants and consumers choose not to access this information, making it available will increase transparency and will empower them to educate themselves further, to identify better opportunities for their business where they may exist. It will also encourage greater competition within the scheme market.

In addition to publishing scheme fee data, further stemming growing scheme fees can be addressed through other areas covered in the issues paper, specifically maintaining the flexibility of surcharging for merchants, and ensuring LCR is available and enabled for merchants who wish to implement it.

These measures were identified in the issues paper as being sources of competitive pressure for scheme fees.<sup>10</sup> Noting that each of these elements is also discussed within the issues paper, we recognise that addressing issues for one form of payment or fee will impact on another. As such, it is imperative to ensure that all potential consequences are appropriately considered, and regulatory frameworks introduced to respond as needed.

### Recommendations:

- The ACCC should be asked to investigate whether card scheme programs deliver competitive outcomes for consumers and merchants, whether these practices should be subject to regulation and, if so, what that should look like.
- Card networks should be required to publish data on scheme fees. They should also be required to provide direct and regular reports to merchants on their specific incurred fees.
- Other measures such as mandating LCR and maintaining the ability to surcharge must occur.

## Least-cost routing

Least cost-routing (LCR) gives merchants and PSPs the ability to route contactless ‘dual-network’ debit card (DNDC) transactions via the lowest cost network.

LCR usually reduces payment costs for both merchants and PSPs, and ultimately consumers as well. For merchants on plans with blended pricing across debit, LCR serves to lower wholesale costs for PSPs. The extent to which any savings are passed on to merchants will typically depend on the pricing structures of PSPs and the degree of competition in the market. The RBA has estimated that the cost of accepting

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<sup>10</sup> Issues paper, pg.14.

debit card transactions is nearly 20 per cent lower for merchants with LCR, although the results differ across merchant size and type of pricing plan.<sup>11</sup>

Over recent years, expectations set by the RBA and advocacy of ACCI members has continued to put the case for making LCR available to merchants for card-present purchases.<sup>12</sup> According to data from June 2024, LCR was available to around 99 per cent of merchants for these payments, which ACCI welcomes.<sup>13</sup>

However, this has not translated to LCR being enabled to the same degree. As at June 2024, LCR was only enabled for card-present debit card transactions for around 70 per cent of merchants.<sup>14</sup> This implementation rate makes it clear that expectations from the RBA alone are not sufficient to encourage this capability.

Further to this, according to RBA data, at least three PSPs have merchants – up to 26 per cent – that have chosen to not enable LCR because it is either not cost effective for them to do so or for non-price considerations.<sup>15</sup> This highlights the need to ensure that as part of making LCR available to merchants, any cost savings incurred by the PSPs are passed onto merchants.

For these reasons, ACCI is supportive of a mandate of LCR for card-present debit card transactions, and ultimately more broadly. This must be coupled with support for businesses to identify where LCR is available and if it can be enabled, if this support is not already provided by PSPs. Further, this support must extend to the benefits for the merchant of LCR, including specific outlines for each merchant on whether it would benefit their business. Accordingly, the mandate should extend beyond making LCR available and enabling it for merchants – it should ensure that merchants are receiving the benefits as well, such as lower merchant service fees.

The ACCC must be empowered to monitor and subsequently enforce an LCR mandate – this would apply to LCR as well as surcharging, if there are issues identified. The additional \$2.1 million allocated to the ACCC in October 2024 is not sufficient for this purpose, and further resourcing will be required to carry out this work if it is to be done effectively.

## Dynamic LCR

We submit that LCR would be much more valuable for merchants if the payment terminal were to automatically nominate the route that incurs the least-cost. Accordingly, it may be appropriate to consider the implementation of a mandate for dynamic LCR, as opposed to the typical binary LCR, which often requires a merchant to manually switch between networks for the least-cost option.

With dynamic LCR, the lowest cost network is assessed and chosen for each individual transaction, or transactions over a period of time, identifying the least-cost option over an average period depending on the network, the transaction amount, and frequency of the payments. This reflects the fact that the lowest cost network may vary across transactions, due to factors such as transaction value and changing PSP fee structures.

Dynamic LCR would enable the terminal to regularly – daily, weekly, monthly – determine the least-cost option for routing payments as these payment structures and typical payment type change, actually allowing the benefits of LCR to flow onto the merchant and ultimately the consumer.

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<sup>11</sup> Reserve Bank of Australia (n.d.), [Backgrounder on Least-cost Routing](#).

<sup>12</sup> Reserve Bank of Australia (2024), [Update on availability and enablement of least-cost routing for merchants](#), August 2024.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

Dynamic LCR may be an option to support merchants who have previously not had LCR enabled as it was not cost-effective to do so. As mentioned above, up to 26 per cent of merchants for some PSPs have opted to not enable LCR because it is either not cost-effective or for another non-price reason. These could be reflective of the complexities of LCR for merchants – often, to reap benefits from LCR, merchants are required to regularly assess whether their terminal is on the appropriate setting for each payment.

To be completely effective, typical LCR assumes a certain level of knowledge and an ability to keep abreast of and assess changing fee structures by the merchant. On account of resourcing and understanding of the opaque fee structures, this may not be possible for merchants to accurately determine, and may therefore be counterproductive.

Encouraging dynamic LCR as opposed to the binary alternative would also enable the merchant, particularly where they are a small business, to focus on their day-to-day operations as opposed to trying to decipher merchant service fee structures as they continue to change, and which one is best suited to the payments their business receives.

## LCR for mobile wallet and online transactions

It is disappointing that the RBA is not also examining LCR for online or mobile wallet transactions through this issues paper, especially as a growing number of customers use these payment services.

For example, submissions to this issues paper are being drafted and submitted around the 2024 Black Friday and Cyber Monday sales, and in the lead up to Christmas. Estimates for the 2024 Black Friday to Cyber Monday period signal that up to \$6.7 billion will be spent over the four days, an increase of over five per cent compared to 2023.<sup>16</sup> Analysis released by Business NSW indicates that online and in-store retail transactions receive a similar boost in the week leading up to Black Friday,<sup>17</sup> with online retail trade in November 2023 valued at over \$4.9 billion and a further \$4.7 billion in December.<sup>18</sup> However, despite these significant figures, LCR is far less accessible for merchants who have an online presence which may be costing them and potentially their customers more.

LCR has started to become available for more online transactions after eftpos launched an online payments functionality in 2022. Following this and the rapid growth in mobile wallet transactions, the RBA has set expectations for PSPs regarding LCR for both online and mobile wallet transactions – currently, the RBA holds an expectation that LCR will become available for mobile wallet transactions by the end of 2024.<sup>19</sup> However, there is no requirement in place for this to occur. Noting the failure of all PSPs to make LCR available for online transactions to date – only six of 12 PSPs had made LCR for online transactions available to merchants as at June 2024,<sup>20</sup> we do not foresee this being implemented by the end of December 2024.

ACCI supports extending the mandate for LCR to these payment methods to ensure that these consumers, and merchants who allow their customers to exercise their choice of preferred payment method, can do so without incurring unnecessary fees. An example of this would be scheme fees – as the issues paper identifies, debit scheme fees are consistently lower where LCR is available,<sup>21</sup> which is not often the case for mobile wallet and online transactions now.

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<sup>16</sup> Australian Retail Association (2024), [Christmas comes early for retailers as Aussies buy sooner and spend more](#), 8 November 2024.

<sup>17</sup> Business NSW (2024), [Special Research Note: Black Friday Retail Trade Analysis](#), 25 November 2024, pg.2.

<sup>18</sup> Ibid, pg.6.

<sup>19</sup> Reserve Bank of Australia (n.d.), [Least-cost Routing of Debit Card Transactions](#).

<sup>20</sup> Reserve Bank of Australia (2024), [Update on availability and enablement of least-cost routing for merchants](#), August 2024.

<sup>21</sup> Issues paper, pg.14.

### Recommendations:

- Mandate LCR for all debit card transactions, including in-person card-present payments, as well as mobile wallet and online transactions. This must be coupled with support for businesses to identify where LCR is available and if it can be enabled, as well as if it will provide a benefit for their business.
- The ACCC must be empowered to monitor the implementation of an LCR mandate and enforce such implementation.
- Consider a mandate for dynamic LCR.

## Transparency of merchant service fees

Merchant service fees are typically comprised of interchange fees, scheme fees and an acquirer margin. Additionally, merchants can face other acquiring fees, which are included in 'total merchant fees' for accepting card payments.

The issues paper correctly identifies issues with transparency of these fees and how they are charged.<sup>22</sup>

Across the board, merchant service fees are complex and opaque. This is the case for businesses of all sizes but more so for small businesses who have constrained time, resources and ability to assess and negotiate ever-evolving payment fee structures.

As identified throughout this submission, transparency is important to ensure merchants and customers are making informed decisions about what payments they make and the method they choose to make it. Increased transparency around merchant service fees, including what fees apply for a transaction, whether it is the best fit for a merchant, and if another form of payment should be encouraged, will also support competition and assist with lowering fees where they are higher than they should be.

Merchant service fee data must be provided in a way that is useable and explainable to drive genuine competition across the payments system. If published data is decipherable only by economists as opposed to business owners and ordinary consumers, it will not deliver any meaningful benefits. The data reported and made available must be clear and concise, and updated regularly to ensure accuracy.

Even if merchants, or consumers, do not choose to access this information, making it publicly available will increase transparency and will empower them to educate themselves further, to identify better opportunities for their business where they may exist.

Of course, ACCI accepts that to some degree and for some payments, this disclosure may be difficult and burdensome for PSPs and scheme operators. Further, we note that some PSPs and scheme operators may believe some of this information to be commercially sensitive. However, enabling merchants and customers to identify more suitable options for their business will be essential in reducing payment fees over time.

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<sup>22</sup> Issues paper, pg.17.

We also appreciate that some of the fees, and structures around fees, change regularly. Accordingly, it may be appropriate that this data only be required at certain intervals, and as accurately as possible within the given data collection period.

We recommend that the RBA prioritise this work to determine the best way to collect and display this data, having regard to resourcing, regulatory burdens, growing reporting requirements and commercial sensitivity, balanced against the need to enable merchants and consumers to make informed choices about payment services and to reduce payment fees.

In this work, it may be appropriate to have regard to fuel costs and price monitoring. This data is collected for the wholesale price and retail price in city and regional markets, which is made publicly available and updated on a weekly basis. Additionally, the ACCC issues quarterly reports on the prices and price movements in the major and smaller cities, as well as some regional areas.

Through its petrol monitoring reports, industry reports and other information channels, the ACCC promotes transparency in the Australian petroleum industry and improved public awareness of the factors that determine retail petrol prices. ACCC monitoring can also shine a light on and place pressure on less competitive pricing.

While it may be that the RBA is best placed to pick up monitoring and reporting for merchant service fees for debit card payments instead of the ACCC, we do believe that it should occur regardless of the oversight or regulatory body receiving and publishing the information.

Again, above all, there should be no difference to the fees applied to small businesses over larger businesses. As stated earlier in this submission, smaller businesses should not incur higher fees than larger businesses for the same services. Introducing more transparency around the various fee structures will be a step in the right direction on addressing this issue, as will caps or benchmarks as identified above.

#### Recommendations:

- Require increased transparency around merchant service fees, including what fees apply for a transaction, whether it is the best option for a merchant, and if one form of payment should be favoured over another.
- Merchant service fee data must be published in a useable way and updated regularly to drive competition across the payments system. The best way to collect and display this data must be determined.

## Surcharging

We note the Government's foreshadowed commitment to introduce a ban of debit card surcharges,<sup>23</sup> subject to further RBA work including through this issues paper. However, while this would be a welcome relief to consumers, ACCI is concerned about the impacts that a surcharge ban, or any surcharging restrictions, may have on small businesses.

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<sup>23</sup> Albanese MP, Hon A.; Chalmers MP, Hon Dr J.; Jones MP, Hon S. (2024), [Reducing card surcharges for Australians and small businesses](#), 15 October 2024.

Surcharging provides an important avenue for merchants, including small businesses, to recoup fees and costs incurred through having an electronic payment system available to customers. The RBA's surcharging regulations allow merchants to surcharge consumers for the reasonable cost of accepting card payments, and the ACCC is empowered to take action against merchant surcharging that exceeds the merchant's cost of card acceptance.

We also take this opportunity to distinguish between the surcharging ability of merchants – which assists in recovering costs incurred through the payments system – and the surcharges applied to transactions with government agencies, such as the Australian Taxation Office (ATO) and Services Australia. On this point, we note that the Government has foreshadowed legislative changes which will correct this unlawful practice and to cease the charges from 1 January 2025.<sup>24</sup>

We welcome these changes, which will provide a minor degree of relief to Australians, including small businesses, as they fulfil their tax obligations for example. However, the lawfulness of and ability for Commonwealth agencies to apply a surcharge is separate to the ability for businesses, particularly small businesses, to surcharge in order to cover the costs of a service they are offering.

ACCI opposes a surcharging ban, or any significant changes to the surcharging framework, which would restrict merchants from recovering reasonable costs incurred through accepting debit card payments. It is important that merchants, particularly small businesses, maintain the ability to surcharge to cover costs where reasonable. Instead, we believe that implementing other recommendations made within this submission, such as increasing transparency of the fees and fee structures for card payments and mandating LCR across all card payments, will have the effect of lowering payment fees overall, therefore lowering the amount merchants will need to surcharge.

Furthermore, some industries have specific legal requirements which restrict their ability to surcharge either entirely or to recover the complete fees incurred through card payments. An example of this is the pharmacy profession. It is important that if any changes do occur to the surcharging framework, they take these specific restrictions into account.

#### **Case study: pharmacy profession and surcharging**

In some circumstances, the pharmacy profession has a unique impediment in being able to impose a surcharge as other merchants in other industries are able to.

Under the *National Health Act 1953* and as at 1 November 2024, pharmacists are prohibited from charging patients more than \$31.60, or \$7.70 for concessional patients, for the supply of medicines subsidised by the Pharmaceutical Benefits Scheme.

For medicines above these prices, this legislative restriction often means that pharmacists are required to subsidise the costs of processing card payments for these medicines. While we note that these industry-specific restrictions may be outside the remit for this review, the RBA should have consideration to any overlap with their framework and whether this overlap is restrictive and, if so, whether the restrictions can be abolished.

Regardless of specific arrangements, each of the surcharging framework change options identified in the issues paper will have adverse impacts on the ability of merchants to recover costs incurred through merchant service fees, requiring that these either be absorbed by the business or be passed onto the customer in another way.

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<sup>24</sup> Gallagher, Senator the Hon K.; Chalmers MP, Hon Dr J.; Leigh MP, Hon Dr A. (2024), [Government acting swiftly on Commonwealth surcharges](#), 22 November 2024.

It is also important to recognise that surcharges often help to steer customers towards lower-cost payment methods.

Accordingly, we do not believe that a blanket ban on surcharging is the appropriate way forward.

## Importance of surcharging for small businesses

Surcharging is an important tool used across industries and sectors to recoup costs incurred through payment processing.

In the hospitality sector, for example, a recent survey suggests that over three quarters of businesses apply a surcharge for card transactions.<sup>25</sup> For 100 per cent of the businesses surveyed, this surcharge is less than 2 per cent,<sup>26</sup> and for almost 97 per cent of respondents, it is only to cover merchant service fees.<sup>27</sup> No respondents said they applied a surcharge to make revenue.

These results are likely to reflect the broader application of surcharging across the small business sector, which represents over 97 per cent of Australian businesses.<sup>28</sup>

## Consequences of surcharging limitations

As noted earlier in this submission, small businesses are inequitably disadvantaged by the merchant service fees they incur, for a range of reasons. Limiting small business' ability to recover costs will have consequences for small businesses more than they will for larger businesses, who have more of an ability to absorb costs or to negotiate lower merchant service fees.

But it is important to note that restricting a merchant's ability to apply a surcharge will also impact consumers as well as merchants. Even if restrictions around surcharging come into force, merchant service fees will still exist. Further, even if merchant card payment fees are reduced through this review and consultation process, they will not be eliminated completely – it is unreasonable to expect that PSPs and schemes will allow merchants to use their services free of charge, nor is this proposition being put.

Restricting surcharges would likely result in merchants increasing their prices to cover the fees, passing these costs onto consumers, creating inflationary pressures across various products, leaving consumers and the economy more broadly no better off.

Businesses within the hospitality industry were asked what impact a ban on surcharging would have on their business. For three quarters of respondents,<sup>29</sup> it will have either a significant or moderate impact on their operations; only 12 per cent said it would have no significant impact on their business.

These businesses were also asked about whether they would be willing to absorb merchant fees associated with debit card transactions if surcharging was banned – only 30 per cent of these businesses said 'yes' or 'maybe'; close to 70 per cent said 'no', they would not.<sup>30</sup> For close to 70 per cent of hospitality businesses, they would be either passing on these costs directly to consumers or would consider other measures, including potentially closing their doors. ACCI's 2024 Small Business Conditions Survey asked close to 400 small business respondents whether they have considered leaving or closing their

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<sup>25</sup> Survey conducted by the Australian Restaurant & Cafe Association, q.1.

<sup>26</sup> Ibid, q.2.

<sup>27</sup> Ibid, q.3.

<sup>28</sup> Australian Small Business and Family Enterprise Ombudsman (2024), [Number of small businesses in Australia](#), August 2024.

<sup>29</sup> Survey conducted by the Australian Restaurant & Cafe Association, q.8.

<sup>30</sup> Ibid, q.13.



businesses in the prior 12 months – an alarming 45 per cent indicated that they had.<sup>31</sup> Yet this was before the Government threatened their ability to recover their significant costs of fees incurred by offering payment methods their customers find convenient.

ACCI members tell us that these results reflect the broader sentiment among small businesses regarding potential surcharging restrictions or bans.

Subsequently, we strongly urge against limiting the ability of merchants, especially small businesses, to apply surcharges to their goods and services, insofar as they facilitate the recovery of payment processing fees.

## Monitoring of surcharges

ACCI welcomes the additional funding made available to the ACCC to investigate instances of “excessive”<sup>32</sup> surcharges. Excessive surcharges are not in the best interests of consumers, nor typically for merchants who rely on their reputation to grow and for returning customers.

While this is an important step towards addressing this issue, it is important to recognise that this small increase in funding will likely not be sufficient to address any systemic over-surcharging where it does exist. The ACCC must be empowered through additional funding and resourcing to identify and combat this behaviour effectively. This support will be crucial to ensure that merchants are not misidentified as abusing their ability to surcharge, especially if there are changes to the surcharging framework as a result of this process.

### Recommendations:

- Do not restrict the ability for businesses, especially small businesses, to apply a surcharge to recoup fees incurred through payment processing.
- Provide greater resourcing to the ACCC to investigate and take appropriate action against excessive surcharging.

## Other matters

ACCI believes that there is a lack of understanding within the community about the complexity of various fees, and why some consumers may pay more for their goods and services for different payments compared to others.

In addition to increased transparency of the various fees that make up the various structures, another important aspect will be spreading awareness of this amongst consumers, as well as merchants more broadly, on how the fees they pay are comprised.

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<sup>31</sup> ACCI (2024), [2024 Small Business Conditions Survey](#), 21 July 2024, pg.6.

<sup>32</sup> Albanese MP, Hon A.; Chalmers MP, Hon Dr J.; Jones MP, Hon S. (2024), [Reducing card surcharges for Australians and small businesses](#), 15 October 2024.

This information should extend to the different types of payments available, including the least and most costly for merchants on a usual basis. This will help to encourage consumers to select lower cost payment options where possible, and drive down costs for both merchants and consumers.

**Recommendation:**

- Increase awareness of various fees associated with card payments amongst merchants and consumers. This should include the different types of payments available, and the usual higher and lower cost options.

## Conclusion

We thank the RBA for their continued efforts to address each of these issues and their work to date.

ACCI believes that by implementing the sensible recommendations laid out within this submission, merchant card payment costs will be driven down, benefiting both merchants and consumers but without adversely impacting merchants.

We look forward to working with the RBA, Government, PSPs and scheme operators on how to advance this much needed work in a palatable manner for all involved.

## About ACCI

The Australian Chamber of Commerce and Industry represents hundreds of thousands of businesses in every state and territory and across all industries. Ranging from small and medium enterprises to the largest companies, our network employs millions of people.

ACCI strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth, and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education, and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

# ACCI Members

## State and Territory Chambers



## Industry Associations





**Australian  
Chamber of Commerce  
and Industry**