



19 July 2012

**MasterCard Worldwide
Comments to Reserve Bank of Australia Surcharging Draft Guidance Note**

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MasterCard acknowledges the decision by the Reserve Bank of Australia (RBA) to amend the Standards allowing surcharging in Australia. The move to vary relevant Standards to allow Schemes to address cases where some merchants are clearly surcharging at higher levels than is justified for card acceptance is clearly in the public interest and will help enhance the efficiency of the Payments sector.

MasterCard is committed to ensuring it is implemented in the most effective way possible. The scope of our comments below is limited to issues pertaining to the draft Guidance Note in the RBA's June 2012 paper "A Variation to the Surcharging Standards: Final Reforms and Regulation Impact Statement". As per the RBA's request, we offer no further comment on the objectives of the relevant Standard.

Clarity is of vital importance

MasterCard is supportive of the need for a Guidance Note to be issued and we suggest it is done well in advance of the amended Surcharging Standards coming into effect. It is self-evident, that the more work done by the RBA, in consultation with affected parties (including Merchants, Acquirers, Issuers, consumers and Schemes) prior to 1 January 2013, the more effective implementation will be after. It is our strong view that the RBA must clearly and explicitly make specific costs allowable under the Guidance Note, else they are likely to be deemed excluded.

To that end, we request considerable tightening of the language in the Guidance Note which, if issued in its current form, would allow merchants surcharging at excessive levels to include irrelevant costs as part of the establishment of what is reasonable. The offending sentence "[t]hese additional costs, which in addition to the merchant service fees might form part of the reasonable cost of acceptance, may include, but are not necessarily limited to" would, in effect, allow merchants to include costs not outlined in the paragraphs that follow which actually seek to limit cost areas.

Of those four 'additional cost' subcategories, the first three (in summary – 'costs payable to acquirers'; 'costs payable to other third party suppliers'; and 'costs borne by the merchant themselves') give a decent but very general overview of where costs will likely emanate, while

the fourth area (any other costs that are incurred only for the acceptance of cards of the relevant schemes and not other payment methods) also effectively undermines any clarity that is provided in the previous three points.

What has become clear as MasterCard has proactively engaged in discussions with interested and affected parties, is that in the absence of very clear and very specific cost inclusions in the Guidance Note, the amended Standard will be difficult for the Schemes to enforce.

As previously indicated, a number of large merchants are on the record as saying they have already identified how to apportion their costs into the definitions as provided and, subsequently will not be required to reduce their surcharge. One example relates to the cost of training staff on POS registers as being considered a 'reasonable cost' because part of that training involved learning how to operate a payment terminal. Apart from the requirement that costs are allocated according to share (which would be difficult to accurately estimate in the absence of a merchant under investigation by a Scheme volunteering a breakdown of their share of payment methods to that Scheme) there is nothing in the draft Guidance Note that explicitly prohibits that. There are many similar issues including PCI compliance (both set up and ongoing costs), the purchase of registers, back office staff, insurances etc where MasterCard believes it would be prudent for the RBA to advise whether they believe the cost can or should be considered part of the reasonable cost of acceptance. (MasterCard has maintained the position consistently since the implementation of the surcharging regime in Australia that surcharging the full cost of cards assumes that the cost of accepting cash to be free. To that end, we agree that all costs not directly and solely incurred in accepting cards should be excluded as forming a reasonable part of the cost of accepting cards. This would necessarily exclude costs such as electronic POS inventory tracking and the like.)

Additionally, we agree with the RBA's final point in the Guidance Note that costs that merchants and acquirers consider to be relevant, should be "calculated net of any rebates from either the acquirer or the issuer" and that costs "applying to multiple payment methods should be apportioned, as far as possible, pro-rata based on the transaction volumes attributable to each payment method". Although, again, it is worth pointing out that in practice this will be impossible for the Schemes to establish without a merchant under investigation volunteering this information to their Acquirer and agreeing that information can be share with the relevant Scheme.

Establishment of relevant costs

The Australian Retailers Association's Russell Zimmerman, in an interview with Business IT had some views related to the cost of accepting credit cards. When asked a specific question, "What does it typically cost to accept credit card payments?" He responded:

"It's about \$27.50 a month including GST for the machine. The line rental is around about \$30 per month. So there's \$60 to \$65 a month on those two things. Then typically you've got a merchant service fee, and the merchant service fee in average terms for a small

retailer, they should be able to get it for under the 1% of the transaction fee, for Visa and Mastercard.”¹

Next steps

MasterCard suggests a much more detailed Guidance Note be issued (one that includes a greater level of specificity of costs) and that this be achieved through an industry roundtable event hosted by the RBA in the coming weeks. Further, we would envisage a more hands-on roll for the RBA that will necessarily entail a greater level of contact with the wider industry going forward. While a more detailed Guidance Note outlining what can and cannot be included in establishing reasonable costs is a vital first step, as the amended Surcharging Standards are tested by Merchants, Acquirers and Schemes there will be a need for arbitration and we believe the RBA is best placed to provide that independent role.

MasterCard will continue to make senior staff available as this discussion progresses. For any further questions, please do not hesitate to contact us directly.

Sincerely,

David Masters
Vice President, Strategy and Corporate Affairs

¹ <http://www.bit.com.au/News/306640,woolworths-mastercard-payroll-tax-qa-with-russell-zimmerman-of-the-australian-retailers-association.aspx>