

COMMERCE COMMISSION

Media Release

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Commission alleges price-fixing in credit card interchange fees

The Commerce Commission has issued civil proceedings against Visa, MasterCard and 11 financial institutions for alleged price-fixing in relation to interchange fees.

In a Statement of Claim filed in the Wellington High Court yesterday, the Commission alleges that fixing the interchange fees is anti-competitive.

Interchange fees are charged by credit card companies. They are paid by retailers as part of the fees they pay to banks. The fee is up to 1.8% of each credit card transaction. Retailers are not permitted to charge customers extra to use credit cards, and so must recover the fees by increasing prices, regardless of whether customers pay by credit, cash or EFTPOS.

The Commission alleges that the following companies have been involved in anti-competitive arrangements relating to the fees: Cards NZ Ltd, Visa International, MasterCard International Inc, ASB, BNZ, Westpac Banking Corporation, Westpac NZ Ltd, ANZ, TSB, Kiwibank, HSBC, NZ Post, The Warehouse Financial Services Ltd and GE Finance and Insurance.

Transactions on New Zealand Visa cards and MasterCard cards totalled \$19 billion in 2004, with 2.1 million Visa cards and 900,000 MasterCard cards in use.

The Commerce Act provides for penalties for price-fixing of up to \$10 million per breach, or three times the commercial gain resulting from the breach, or 10% of a company's turnover.

The Commission does not allege any collusion between Visa and MasterCard. The alleged price-fixing is between Visa and its shareholder financial institutions, and between MasterCard and its member financial institutions.

As the matter is before the Courts, the Commission will not be commenting further.

Background

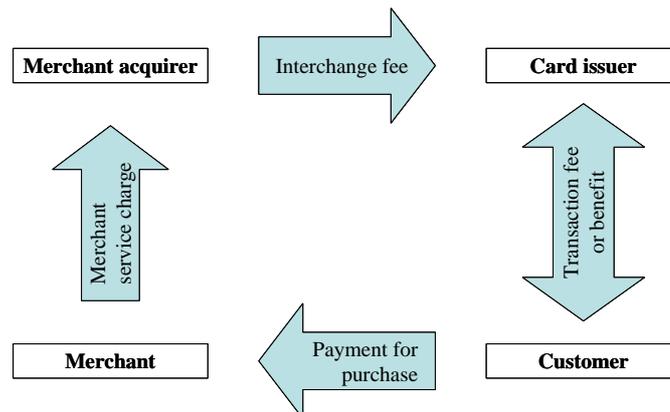
Interchange fees. Each time a New Zealand Visa or MasterCard cardholder makes a purchase, the card acceptor (usually a retailer or service provider) pays a fee to their own bank as part of the payment authorisation process. That fee is comprised mainly of the interchange fee, which is paid to the cardholder's bank.

Visa and MasterCard purchases occur in a four-party card system, which operates as follows:

- Cardholder purchases goods or services from a merchant;
- Merchant sends the transaction details to its own bank (*acquiring bank*);
- Acquiring bank sends the transaction details to the bank or financial institution that issued the card (*card issuing bank*);
- Card issuing bank pays the acquiring bank the retail price of the goods or services *less* the interchange fee;
- Acquiring bank pays the merchant the retail price less a merchant service fee;
- Card issuing bank debits the retail price from the cardholder's account.

The retailer or service provider, which has incurred the interchange fee, is not allowed to recover the fee from credit card users, so must average out the cost of that fee across all of their sales. This increases the cost of every item or service sold by businesses which accept Visa or MasterCard. All customers of those businesses bear that averaged fee, regardless of whether the customer pays by credit card, cash, EFTPOS or another payment method.

Figure of Flow of Payments in a Credit Card Transaction



Credit card usage in New Zealand. Transactions on New Zealand Visa cards and MasterCard cards totalled \$19 billion in 2004. (NB: This figure covers transactions made anywhere in the world, but the Commission’s action concerns only payments made in New Zealand.) In 2004 there were approximately 2.1 million Visa cards and 900,000 MasterCards in use in New Zealand. In 2004 Visa had 61% of the New Zealand credit card billings, and MasterCard had 29% of the market.

Relevant sections of the Commerce Act. The proceedings are brought under ss 27 and 30 of the Commerce Act 1986. Section 27 prohibits contracts, arrangements or understandings that substantially lessen competition. Section 30 prohibits fixing, maintaining or controlling prices.

Penalties. The Commerce Act provides for penalties for price-fixing of up to \$10 million per breach, or three times the commercial gain resulting from the breach, or 10% of a company’s turnover.

International action on interchange fees. Interchange fees have been scrutinised by many international regulatory agencies. The Reserve Bank of Australia has recently moved to regulate the level of interchange fees, bringing down the fees from 0.95% of transaction value to about 0.50%. Further information is available at www.rba.gov.au. An investigation is currently underway by the [UK Office of Fair Trading](http://www.offt.gov.uk) and multiple legal actions by retailers have been brought in the United States.

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