Response for PSR – Pre-consultation on Card Acquiring

From the Emerging Payments Association

About the Emerging Payments Association

The Emerging Payments Association (EPA) is a thriving community of payments professionals to strengthen and expand the payments industry to the benefit of all stakeholders.

Since 2004 the EPA has been instrumental in helping to connect the ecosystem, encourage innovation and promote competition in this market.

We achieve this by delivering a comprehensive programme of activities for over 130-member companies, with the help of our independent Advisory Board, which address issues affecting the payments industry and its users.

This include events, conferences, award ceremonies, research, projects and lobbying activities.

The Emerging Payment Association's response

Question 1:

Do you agree with our description of card-acquiring services?

The definition of card acquiring services in the terms of references should be replaced with the definition specified in article 4, clause 44 of Directive 2015/2366 ('PSD2');

'Acquiring of payment transactions' means a payment service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to the payee.

In addition, there should be an understanding of Payment Facilitators and ISOs and PSPs who provide payment services to the SME sectors:

Payment Facilitator - An agent of the card-acquirer that works directly with merchants to simplify the merchant enrolment, manages their transaction data and settle the merchant's funds on behalf of the card acquirer. These entities are usually also regulated as they are in the flow of merchant funds

ISO (Independent Sales Organisation) - A third party sales company contracted by a card-acquirer to re-sell that card-acquirer's services.

MSP (Member Service provider) – Usually a gateway connected to an acquirer that works directly with merchants, will have a buy rate with an acquirer but generally sets pricing to the merchant (with Acquirer ability to override), they may also take full or partial liability for risk. Usually the merchants are paid direct by the acquirer.

Wallets/aggregators – Whilst technically a Merchant for the purposes of the contract between them and the acquirer these businesses essentially operate as "mini-Acquirers" in their own right. The Card Scheme Rules apply to them equally and their voice should therefore also be heard. These entities are usually also regulated as an acquirer because they are in the flow of merchant funds.

Question 2:

Do you agree with the proposed scope of the market review?

The consultation should include ISOs, Payment Facilitator models, MSPs and wallets/aggregators since they influence what merchants are charged and the level of service they receive.

To conduct a full review of card acquiring services then the service, regulation and sales distribution should be considered. Within the ISO channel, and for some acquirers, the provision of POS terminals should also be included in this review. From the card scheme perspective review of the scheme fees along with collateral costs across the industry should also be examined much more comprehensively to understand the true cost of acquiring services.

It should also be noted that the setting of fees from acquirers will be based on the Merchant Category Code (MCC). A MCC classifies each merchant by the type of goods or services they supply. Understanding how findings differ between each MCC is important because the MCC dictates several aspects of pricing. For instance, the amount of interchange payable by the merchant. Second, certain MCCs impose more risk on acquirers than others. For example, there is a higher risk of chargebacks incurred when providing acquiring services to a merchant classified under ‘gambling’. The PSR has indicated they seek to examine the fees that are charged to merchants. The setting of fees by an acquirer is greatly influenced by the amount of interchange charged for a transaction as well as the risk profile of the merchant, both of which are indicated by the MCC.

In addition, there are additional fees levied by the card schemes for certain MCCs that are considered high risk that require additional registration with a card scheme which attracts additional costs. These differences will occur along with higher collateral requirements from the card schemes. This has an impact on smaller acquirers and new entrant acquirers who are required to pay and fund collateral versus the larger acquirers who fall outside of collateral requirements, due to their better risk rating by the card schemes.

Question 3:

Do you agree with our proposal to focus on card-acquiring services for MasterCard and Visa?

Yes.

Question 4:

Do you agree with our proposed approach?

This approach suggests that issues affecting merchants will be prioritised over those issues affecting acquirers. Acquirers take on significant risks because of providing acquiring services and these risks and justifications for certain costs imposed on merchants will be overlooked if acquirers are not given an equal involvement in the review.

Paragraph 2.15 omits the methods and techniques the PSR will employ to carry out the examination of those six listed items. Considering our response to paragraph 2.14, we recommend the PSR include in the terms the methods and techniques the PSR intends to use. An examination of those items listed in paragraph 2.15 would not be complete without information provided by all stakeholders comprising the card acquiring service chain, including merchants, payment facilitators, ISOs and acquirers and MSPs in a balanced manner.

Merchants may not be able to sufficiently inform the PSR on the proposed items to be examined. A merchant's use of the acquiring services is limited to that of an end user whereby the merchant performs a transaction through use of a terminal and are the final beneficiary of the settled funds. The merchant does not have insight into the entire acquiring process or value chain as they may have limited visibility of the end to end authorisation, clearing, and settlement of transactions via card networks as it does not form part of their 'end user' experience.

Question 5:

Do you have any comments on the specific issues of interest, including whether there are additional issues we should consider and whether the issues identified have the potential to be relevant to the market review?

Collateral requirements required by the card schemes impacts the smaller acquirers significantly. The main concern for acquirers is the lack of transparency around this process with both schemes setting different and varied amounts companies must pay, with some companies given alternative options that are not open to all. The larger acquirers are exempt these fees. There is no transparency on how this is calculated, and smaller acquirers are penalised financially.

Acquirers operating PF models are also required to provide even more additional collateral which makes it hard for smaller acquirers to afford to support these models. There may also be larger acquirers who have been exempt these fees.

There should be an examination of the collateral processes across the industry and how this impacts all players.

Card scheme billing is complex, recovery of card scheme fees is the most challenging issue faced by all acquirers trying to recover the true cost.

For example: brand fees are charged in arrears rather than when the transactions are processed. Acquirers struggle to understand the different fees being charged by the card schemes, their frequency and how each is calculated. It is also common for acquirers to only recover the transaction driven fees and no other types of fees. Large acquirers still benefit from tiered pricing which makes it harder for smaller acquirers to compete.

There are also examples of mandated fees that are not relevant to all types of acquirers. An example would be the Visa ATM locator fee per month which is charged to ecommerce acquirers even though they may have no ATMs.

There should be a review of the scheme fees and if these have increased disproportionally currently the fees are broken down into categories, but all need to be analysed.

- Membership fees
- Brand fees
- Processing fees
- Other fees (other fees should be examined closely)

Scheme fees all-round need to be simplified such that acquirers (and PFs, ISOs, PSPs) can much more easily calculate the necessary scheme fee for a specific single transaction and pass it on to the merchant as part of the interchange plus plus pricing.

Extensive set-up costs are initially covered by acquirers to facilitate service provision to merchants, such as:

1. Carry out pre-contractual checks on the merchant as they are required to by law
2. Integrate the software
3. Provide new hardware such as terminals

4. Provide training
5. Provide customer support over the term of the contract and so on including any registration fees with the card schemes

The acquirer's set up costs as well as ongoing costs are built into the price of the acquiring services and apportioned over the term of the contract. Accordingly, if a merchant was afforded a termination right after, say, one month of paying for the services, the cost of the set up would have to be covered by the merchant upon execution of the contract and ultimately cool the market for acquiring. Expensive initial set up costs for merchants would have the effect of merchants remaining in their current contracts for longer as switching providers would involve significantly more expense.

Timing

We would like to call the timing of the PSR's review into question. The Interchange Fee Regulation (IFR) is still a reasonably new legislation and is due to be reviewed in 2019. Article 17 of the IFR calls on the European Commission to submit a report on the application of the IFR by no later than June 2019, taking into account similar assessment criteria as the current PSR market review.

Given that the Second Payment Services Directive (PSD2) only entered into force nine months ago, it is important to understand that the current review comes at a time of significant change in the payments sector. PSD2 has already and will continue to further increase competition in the payments sector which will also drive costs down, with new market entrants and new business models changing customer behaviour and needs, alongside the uncertainty and impact on the competitive landscape for UK acquirers caused by Brexit should all be considered when determining when to conduct this review.