

Electronic Money Association
Crescent House
5 The Crescent
Surbiton, Surrey
KT6 4BN
United Kingdom
Telephone: +44 (0) 20 8399 2066
www.e-ma.org

Cross-border interchange fees market review team
Payment Systems Regulator
12 Endeavour Square
London E20 1JN

By email to: cardfees@psr.org.uk

7 February 2025

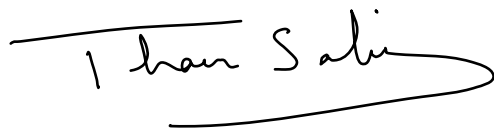
Dear Sir/Madam,

Re: PSR CP24/14 Market review of UK-EEA consumer cross-border interchange fees - Stage 1 remedy consultation

The EMA represents non-bank issuers and acquirers, and our members include leading payments and e-commerce businesses providing online payments, card-based products, electronic marketplaces, open banking payments and more. The EMA has been operating for over 20 years and has a wealth of experience regarding the regulatory framework for electronic money and payments. A list of current EMA members is provided at the end of this document at ANNEX II.

We would be grateful for your consideration of our comments to the PSR's Stage 1 remedy consultation, which are set out below in ANNEX I.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Thaer Sabri', with a long horizontal flourish extending to the right.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

ANNEX I - EMA response

Question 1: In light of our analysis of feedback received to date, do you agree that we should implement a price cap on CNP UK-EEA cross-border IFs in two stages, with the stage one cap being implemented whilst we develop and implement a methodology to calculate a stage 2 cap? Please provide reasoned views and supporting evidence for your response.

The EMA welcomes the PSR's market review of UK-EEA cross-border interchange fees (**IFs**) and the opportunity to provide feedback to the Stage 1 remedies consultation. We are supportive of the PSR's aims in seeking to address the harms associated with unduly high levels of IFs, which impose costs on UK merchants and, to the extent of pass-through, their customers. We acknowledge that to address this harm the PSR proposes a remedy that will introduce a price cap on consumer debit and credit IFs for UK-EEA card-not-present (**CNP**) transactions (**outbound IFs**).

As an association whose members include both card issuers and acquirers, as well as providers of alternative payment methods, such as Open Banking, we recognise the complexity of the issue at hand and the diverging viewpoints on the potential impact of introducing a price cap on UK-EEA CNP IFs, depending on a particular business model.

PSR's two-stage approach

Overall, the EMA does not support introducing a price cap on UK-EEA CNP IFs with a two-staged approach. Our position is based on the following principal considerations:

- 1. Introducing a price cap on an interim basis will double the implementation effort and costs, with a significant disruption and uncertainty to the market.** We consider that the PSR's analysis to date likely underestimates the complexity and costs associated with implementing an IF price cap. This may involve significant technical changes to acquirers' systems, in addition to more administrative costs associated with re-pricing of merchant contracts and communicating the changes to merchants. These costs would be likely further compounded given the proposed 6 month implementation timeline, which may be too short for usual 'business as usual' implementation cycles, requiring to redirect resources from other areas.

The PSR's draft cost and benefit analysis (CBA) does not attempt to quantify the implementation costs, other than making an assumption that administrative costs would be 'marginal' for both issuers and acquirers. The PSR appears to base this assumption on the conclusion that implementation work could be incorporated into regular business activities.

We consider this premise to be flawed: these costs will nevertheless stem from implementing an IF price cap - a regulatory intervention - and should be considered fully when judging the merits of the two stage price cap. We urge the PSR to gather further evidence in that regard.

Introducing caps in two stages also brings in market uncertainty and disruption that could be avoided with a single cap approach. Market participants will not be able to

effectively plan for their pricing, product change and investment decisions, in the expectation that such decisions will need to be revised, in relatively short succession, once the lasting cap is introduced.

Given that implementation effort and costs would have to be expended not once but twice, and along with other reasons outlined above, we consider that the PSR's two-stage approach is inefficient and unduly disruptive. The duplication of implementation costs could also reduce the benefits of the price cap, to the extent of their pass-through, to merchants and their customers.

2. Introduction of a Stage 1 price cap before developing a comprehensive methodology for determining the IF levels may lead to suboptimal outcomes.

Whilst the PSR's two-staged approach is generally not supported, our member views are divided on whether it would be more appropriate to set the cap only after the PSR's methodology is developed, or to focus the PSR's work in introducing the cap as part of a single stage, i.e. stage 1.

On the one hand, setting the cap before the methodology is developed risks setting fee levels that do not adequately reflect market dynamics or the costs associated with UK-EEA cross-border transactions. This approach also presupposes a certain outcome of the PSR's work in determining the lasting Stage 2 price cap, which could be prejudicial to the levels of IF fees eventually selected in accordance with the methodology to be developed for Stage 2 cap. Hence there is a concern that setting a price cap now, at whichever level, may not be appropriate both due to lack of evidence that they would be suitable for the interim period and because these levels risk setting a flawed benchmark for the Stage 2 price cap.

The alternative view is that introducing a price cap now, most likely by returning to the pre-Brexit levels (0.2%/0.3%), is appropriate to address the harm to merchants associated with the IF fee increases and given the limited justification for those fee increases. Nevertheless, given the disruption and negative consequences associated with making changes not once but twice, as outlined above, stage 1 should be the one and only stage.

Based on the considerations noted above, we consider it would be more appropriate for the PSR to focus on implementing a single stage cap. This approach should reduce implementation and administrative burdens and provide more stability and predictability for market participants.

Addressing the root-cause: competition

As the PSR acknowledges itself, the IF price cap does not address the root cause of the harm it has identified - the lack of effective competition on the card acceptance side.¹ What is truly needed therefore is more competition, a genuine choice of payment method alternatives, as the most effective route to lowering the fees to merchants and consumers. Without more

¹ Paragraph 2.14 of CP24/14 Market review of UK-EEA consumer cross-border interchange fees Stage 1 remedy consultation

competition, price regulation offers, at best, only a limited, short-term solution or, at worst, an intervention the positive effects of which will be negated through unintended consequences elsewhere in the ecosystem. We therefore urge the PSR to also focus its efforts on creating a regulatory environment that fosters competition and innovation in the market, particularly as regards account-to-account payments, so that the market has the opportunity to develop viable alternatives to card payments.

Question 2: Do you think that for the stage 1 price cap, capping IFs at the previous levels for outbound transactions (0.2% for debit cards and 0.3% for credit cards) would be appropriate? If you have made representations on this issue to us before, do you have any further points to make to us? Please provide reasoning and evidence supporting your views.

The EMA's principal objection is that implementing an interchange fee cap on an interim basis may not be appropriate, as outlined in our response to Question 1.

With regards to returning to the EU IFR levels;

- We note that these were set more than 10 years ago for the intra-EEA context, based on the 'merchant indifference test' methodology selected by the EU Commission. They are very likely outdated and lack sufficient evidence to demonstrate their appropriateness for the current UK-EEA context, even on a temporary basis. As the PSR recognises itself, *"there are analytical and empirical challenges associated with this type of methodology, and in any event no robust methodology of this nature (and related identification of relevant comparators) has yet been developed for the purposes of the specific UK-EEA corridor."*²
- On the other hand, as outlined in our response to Question 1, some of our members would support returning to the 0.2%/0.3% IF fee levels and consider them appropriate, given the lack of justification for the fee increases post-Brexit and that fee increases were harmful to merchants.

Question 3: Do you consider any of the other levels would be more appropriate and, if so, why? In particular, please provide your views on 0.5%, 0.6% (which presents a more cautious approach relative to the potential for negative effects, including in relation to issuer costs), an alternative increment below 1.15%, 1.5%, and/or on a level of 1.15%, 1.5% (which would maintain current levels but prevent further increases). Please provide supporting evidence.

We reiterate that the EMA's principal objection is that implementing a price cap on an interim basis may not be appropriate, as outlined in our response to Question 1.

Question 4: Do you agree we should implement the stage 1 cap 6 months after the direction? If not, should we (i) set a specific implementation date (for example, 1 October or 1 April) for entry into force of the price cap (even if this were to reduce the implementation period to less than six months); or (ii) set a date which is longer than

² Paragraph 3.2 of CP24/14 Market review of UK-EEA consumer cross-border interchange fees Stage 1 remedy consultation

6 months? In either case, please provide supporting evidence for your recommendation.

We reiterate that the EMA's principal objection is that implementing a price cap not once but twice may not be appropriate.

Nevertheless, if stage 1 price cap were to be introduced, the EMA considers a six-month implementation timeline will likely to be too short to allow for implementation within 'business as usual' cycles. In particular, implementing a cap on UK-EEA transactions, as a distinct region, may require significant technical changes to acquirer systems and processes. A short implementation timeline may also bear an impact on costs, given that resources may need to be diverted from other activities in order to meet the implementation deadlines. This and operational complexity suggests that a longer implementation period may be necessary. We consider 12 months may be more appropriate.

Question 5: Do you agree that the stage 1 price cap should be implemented through a general direction made on Mastercard and Visa as the operators of the Mastercard and Visa Europe regulated payment systems?

Without prejudice to the reservations expressed above regarding the imposition of a price cap on an interim basis, the EMA agrees that the proposed method of implementation via a general direction made on Mastercard and Visa appears reasonable.

Question 6: Do you have any comments on the draft direction at Annex 2? In particular:

- a. do you have any views regarding the obligations the draft general direction would place on the schemes to notify their acquirers about any change in IFs mandated by the draft general direction (paragraphs 3.3 and 3.4 of the draft general direction)?**
- b. do you have any views about our current view that retaining the right to require the schemes to appoint a monitoring trustee if we deem it necessary (as set out in paragraph 10 of the draft general direction) would be a proportionate and appropriate approach?**
- c. Aside from timescales for implementation (see question 5 above), do you have any views regarding other potential timescales set out in the draft direction, for example, the duration of the draft general direction and timescales for its review and amendment, or revocation?**
- d. Do you have any views on the draft circumvention provisions (paragraph 6 of the draft general direction)? For example, do you think they could be strengthened in any way?**
- e. Do you consider any clauses / provisions to be missing or any ambiguity that requires clarification?**

The below sets out the concerns expressed by some of our acquiring members in relation to the PSR's draft direction.

Scheme monitoring

Section 8.4(b) of the draft direction states each Directed Operator (Visa/Mastercard) must provide, on request, the PSR with information in connection with *“monitoring the effectiveness and appropriateness of this general direction (or any provision of this general direction), including for the purposes of any work carried out in connection with section 4”* (where section 4 imposes and sets out the process for reviewing the IF caps).

It is not clear what such monitoring would involve. It could be interpreted that the text of Section 8.4(b) sets an expectation or even permission for the card schemes to play an active role in monitoring of the effectiveness and appropriateness of the general direction, which would be inappropriate for several reasons:

- This would create a conflict of interest and undermine the credibility of the monitoring process, given that schemes have expressed views that the remedy will not be effective or appropriate.
- The wording is vague and open to interpretation, which may lead to confusion and disputes. For example, "effectiveness" could be interpreted in various ways, possibly to mean that schemes must monitor whether acquirers pass on the lower IFs to merchants, or even whether merchants pass on lower merchant service charges to consumers; the latter of which is practically impossible for schemes to monitor accurately. Similarly, the term "monitoring" could be interpreted to mean "enforcing", which would exceed the schemes' intended role and authority.
- For acquirers, the concern is that Section 8.4(b) could blur the lines between their commercial relationship with the schemes and their regulatory relationship with their regulators. Schemes are not regulators, are not subject to the same standards as regulators, and would quite likely have differing views on compliance and enforcement. This could place acquirers in a difficult position, with potential consequences for their business and reputation.

Schemes should not have a role in enforcing or monitoring acquirer pricing. This responsibility should be left to the acquirers themselves and their respective regulators, who have the expertise and authority to oversee compliance and enforcement in a fair and consistent manner.

Acquirer pricing and costs

There is a more general concern that judging or enforcing the "effectiveness" of the PSR's price caps by card schemes would focus on the extent of the pass-through to merchants or otherwise interfere with the acquirer pricing decisions.

The schemes do not set end-user (merchant) pricing, they only manage financial institutions within their membership, and the acquirers must be free to deploy a variety of pricing models. As regards blended rate pricing in particular, since interchange is only one input, it is not accurate to assume that a reduction in cross-border IFs will automatically result in a similar corresponding reduced blended rate. Other factors, such as platform investment and increased costs, can influence processing charges and the blended rate offered by acquirers.

As shown by the varied response to post-Brexit rate increases in the blended rate market, acquirers deploy diverse pricing strategies. An acquirer may choose to absorb or pass on the

rate through its merchant service charge, and it would be inaccurate to compare one acquirer's response to another's.

Furthermore, the cost of acceptance charged by acquirers includes a range of services that add real value to merchants, including payment processing, business reporting, fraud protection, and subscription management. It is not simply the pass-through of interchange and scheme fees.

Ultimately, the only parties that should be responsible for setting acquirer pricing are acquirers and they should be judged directly by their customers and ultimately the PSR. The schemes should not interfere with acquirer pricing decisions, which must be left to the market. Monitoring the effectiveness of pricing remedies based solely on price is misguided, as it overlooks the overall value of the acquirer service proposition and features and why merchants choose specific acquiring services.

Scheme and Acquirer Notification Requirements

Section 3.4 of the draft direction directs Visa and Mastercard schemes to notify their acquirers, and request that acquirers, in turn, notify their UK merchant customers of the PSR's general direction and the IF caps introduced under it.

The new requirement mandating acquirers to notify their relevant UK based merchant customers seems unjustified, especially in the context of the transparency remedies introduced following the PSR's card acquiring market review. These transparency measures already enable merchants to compare prices and other service features more efficiently. It should be up to the merchant to use these tools to make an informed decision about which acquiring services they wish to use based on their specific needs and service features they require. We urge the PSR to assess the impact of these acquiring market remedies before introducing new transparency requirements, and to conduct a proper cost and benefit analysis in judging the merits for additional transparency measures.

Imposing new IF cap disclosure requirements also does not sufficiently take into account that acquirers today compete on a number of aspects, including non-price related (e.g. technology quality, reliability, customer service and innovation), which make up the overall value proposition to and are important to merchants. In respect of small and medium-sized merchants, the reported experience of some of our members is that the market is competitive, merchants do shop around and switch, which indicates an ease of price discovery and clear information about available features. Furthermore, in our members' experience, merchants switch not solely due to acquiring price but a broader range of factors (ease of our onboarding, fraud capabilities, range of payment methods, ease of integration, higher authorisation rates, API uptime etc).

Question 7: Have we missed any adverse potential consequences of an interim remedy at 0.2%/0.3%, 0.5%/0.6% or 1.15%/1.5%? if so, please provide reasoned explanation and supporting evidence.

The EMA's primary concern with the interim remedy is the lack of robust evidence to justify the proposed levels, as outlined in our response to Question 1.

We consider that IF price cap, as an interim remedy, creates uncertainty and may lead to unintended consequences, such as:

1. Market disruption and uncertainty, including by issuers needing to adjust their business models or investment decisions, as well as inability to effectively plan for these decisions before the lasting price cap is introduced.
2. Duplication of costs as interim remedies necessitate system changes that will need to be revisited once a long-term cap is established.

Question 8: Do you agree with the potential impacts (costs and benefits) of a stage 1 price cap remedy we identified in our cost-benefit analysis? If not, which impacts do you consider to be unlikely to materialise or which likely impacts do you think we have not covered?

No response.

Question 9: Do you agree with our assessment of the likely scale of the potential impacts (costs and benefits) in our cost-benefit analysis? Where you disagree with our assessment of likely impacts, please provide any evidence to support your points.

We reiterate our concern that the PSR's CBA does not quantify and is likely to underestimate the implementation costs associated with implementing a price cap as an interim remedy, as outlined in response to Question 1. We urge the PSR to gather further evidence on such costs, and take this into account when judging the merits of introducing a two-stage price cap.

Question 10: Do you agree with our assessment on potential unintended consequences? If you consider one or several of the potential unintended consequences to be of more significance than indicated by our current analysis, please provide evidence as to why

No response.

Annex II - Members of the EMA, as of February 2025

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[Airwallex \(UK\) Limited](#)
[Amazon](#)
[Ambr](#)
[American Express](#)
[Banked](#)
[Benjamin Finance Ltd.](#)
[Bitstamp](#)
[Blackhawk Network EMEA Limited](#)
[Boku Inc](#)
[Booking Holdings Financial Services International Limited](#)
[BVNK](#)
[CardaQ Ltd](#)
[CashFlows](#)
[Circle](#)
[Coinbase](#)
[Contis](#)
[Crypto.com](#)
[Currenxie Technologies Limited](#)
[Curve UK LTD](#)
[Decta Limited](#)
[Deel](#)
[eBay Sarl](#)
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[emerchantpay Group Ltd](#)
[EPG Financial Services Limited](#)
[eToro Money](#)
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[Finance Incorporated Limited](#)
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[Park Card Services Limited](#)
[Payhawk Financial Services Limited](#)
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