



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Retail Payment System Bill: Approval for Introduction	Date to be published	29 October 2021

List of documents that have been proactively released

Date	Title	Author
September 2021	<i>Retail Payment System Bill: Approval for Introduction</i>	<i>Office of the Minister of Commerce and Consumer Affairs</i>
30 September 2021	<i>LEG-21-MIN-0159</i>	<i>Cabinet Office</i>

Information redacted

YES

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Information redacted for the reason of Confidential advice to Government.



Cabinet Legislation Committee

Minute of Decision

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Retail Payment System Bill: Approval for Introduction

Portfolio Commerce and Consumer Affairs

On 30 September 2021, the Cabinet Legislation Committee:

- 1 **noted** that in April 2021, the Cabinet Economic Development Committee (DEV) agreed:
 - 1.1 that regulatory intervention is required to reduce the adverse impacts of high merchant service fees resulting from the economic inefficiencies in the retail payments system, specifically card products;
 - 1.2 that the Retail Payment System Bill introduce a regime to regulate (on a case by case basis) classes of retail payments system participants, their providers, and any associated infrastructure operators (including secondary infrastructures) that meet the prescribed thresholds;
 - 1.3 to elements of the regulatory regime for the retail payment system, including that:
 - 1.3.1 a transitional price path be established to reduce interchange fees for the main credit and debit card schemes;
 - 1.3.2 the Commerce Commission (the Commission) would regulate the regime, recommend to the Minister that a network be designated to allow for regulation of the network and participants, and then regulate designated networks by imposing pricing principles or limits on fees, imposing access or information disclosure requirements, making directions, and entering into enforceable undertakings; and
 - 1.3.3 the regime would be broadly scoped to potentially apply to any retail payment method (excluding cash), and equip the regulator with a broad toolkit to address problems that may arise in the future;
- [DEV-21-MIN-0075]
- 2 **noted** that in July 2021, DEV:
 - 2.1 took further decision on the regulatory regime relating to:
 - 2.1.1 the design of the designation model;
 - 2.1.2 the Commission's powers to regulate the designated participants and non-designated participants;

- 2.1.3 the regulation of the surcharges applied by merchants, to limit excessive surcharging;
 - 2.1.4 monitoring and enforcement, including pecuniary penalties; and
 - 2.1.5 the initial designation of Mastercard and Visa retail payment networks and an initial pricing standard that will apply to these networks;
- 2.2 authorised the Minister of Commerce and Consumer Affairs to make additional policy decisions and minor or technical changes, consistent with the general policy intent;

[DEV-21-MIN-0146]

- 3 **noted** that the Retail Payment System Bill Confidential advice to Government
- 4 **noted** that the Bill introduces a regulatory regime to promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand;
- 5 **noted** that minor technical amendments have been made to the Bill, and that the following changes have been made to the Bill to reflect additional policy decisions:
- 5.1 the Commerce Commission is able to issue merchant surcharging standards to ensure that payment surcharges are not excessive and reflect the cost to the merchant of the payment services used for accepting the retail payment;
 - 5.2 the Bill provides for pecuniary penalties for a contravention of a merchant surcharging standard, of up to \$200,000 for individuals or \$600,000 for a body corporate;
 - 5.3 the Commission can issue a notice to take corrective action related to a contravention of a merchant surcharging standard, with pecuniary penalties for breaching a notice, of up to \$10,000 for individuals or \$30,000 for a body corporate;
 - 5.4 the Bill provides for enforceable undertakings to remedy non-compliance only, rather than also as an alternative to regulation;
 - 5.5 the Bill no longer provides for pecuniary penalties for a contravention of enforceable undertakings.
- 6 **approved** for introduction the Retail Payment System Bill [PCO 23492/5.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 7 **agreed** that the Bill be introduced on 5 October 2021;
- 8 **agreed** that the government propose that the Bill be:
- 8.1 referred to the Economic Development, Science and Innovation Committee for a period of four months;
 - 8.2 Confidential advice to Government

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood
Hon Kiri Allan
Hon Dr David Clark
Hon Phil Twyford

Officials present from:

Office of the Prime Minister
Officials Committee for LEG