



COVERSHEET

Minister	Hon Scott Simpson	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Ban on merchant surcharges for accepting payments	Date to be published	17 September 2025

List of documents that have been proactively released

Date	Title	Author
July 2025	Ban on merchant surcharges for accepting payments	Office of Minister of Commerce and Consumer Affairs
16 July 2025	Ban on merchant surcharges for accepting payments ECO-25-MIN-0106 Minute	Cabinet Office
17 June 2025	Regulatory Impact Statement: Ban on merchant surcharges for accepting payments	MBIE
23 May 2025	Competition analysis of banning card surcharges	Axiom Economics

Information redacted

YES

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Some information has been withheld for the reasons of commercial information and constitutional conventions.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Economic Policy Committee

Ban on merchant surcharges for accepting payments

Proposal

1. This paper seeks agreement to amend the Retail Payment System Act 2022 (**the RPS Act**) to ban consumer surcharges on certain card payments including in-store contactless debit and credit cards.

Relation to government priorities

2. This proposal links to the Government's priority to get the cost of living under control. Payment surcharges are an additional charge on the price of many everyday goods and services for New Zealanders. These surcharges are often excessive, hidden to consumers, and mask the total cost of goods and services.

Executive summary

3. The Commerce Commission (the **Commission**) estimates that consumers pay up to \$150 million in payment surcharges each year, of which about \$45-65 million likely exceeds the merchants' reasonable costs. These fees are a source of annoyance and irritation for consumers. Consumer NZ has launched a campaign to ban surcharging in response to complaints from consumers about hidden and often excessive fees.
4. I seek agreement to amend the RPS Act to introduce a ban on consumer surcharges for certain classes of card payments. I propose the ban includes in-store domestic contactless debit and credit card (Visa and Mastercard) payments. This also includes payments with these cards via Apple Pay, Google Pay and the like.
5. The Commission regulates a major component of the fees charged to merchants to make and receive payments using the Mastercard and Visa networks. The Commission is proposing to reduce these interchange fees, with its final decision due in July 2025. In anticipation of a share of the savings from lower fees being passed onto merchants, I propose banning consumer surcharges for the majority of in-store card payments. At the same time, I propose to introduce a new regulation-making power under the RPS Act so that the ban can be extended in future to other types of card payments, such as online payments.
6. I propose that the ban on surcharges is announced and implemented shortly after the Commission's decision to lower interchange fees within the Visa and Mastercard networks so that businesses can consider the combined impact.

7. If agreed, I seek agreement to add a new Retail Payment System (Ban on Surcharges) Amendment Bill to the 2025 Legislation Programme [REDACTED] [REDACTED] Constitutional conventions [REDACTED]).

Background

Detriment to consumers through hidden or excessive fees

8. There are no laws in New Zealand preventing merchants from setting surcharges to recover their costs of accepting debit and credit payments. The main requirements are set out in the generic provisions of the Fair Trading Act 1986, which prohibit false or misleading representations as to the price of goods or services. Commission guidelines indicate that:
- 8.1. Any surcharges must be clearly displayed so that consumers can make an informed assessment about the purchase and choose to pay in a way that best suits their needs. Ideally, the merchant should offer at least one surcharge-free payment option.
- 8.2. Any representation that the surcharge is to recover the merchant's costs of accepting payment requires that it should not be used to recover other costs.
9. However, there are widespread concerns of non-compliance with these requirements. Consumer NZ advises that it has received hundreds of complaints of hidden and excessive fees. The Commission estimates that consumers pay up to \$150 million in payment surcharges each year, of which about \$45-65 million likely exceeds the merchants' reasonable costs of acceptance. Other stakeholders such as Mastercard consider this is a low estimate.

Current approach to addressing excessive surcharging

10. The Commission estimates that up to 30 percent of merchants have surcharging policies, and these merchants are generally in low-margin sectors, such as hospitality or retail, with many being small businesses. Larger merchants have the bargaining power to negotiate lower fees and often treat payments as a cost of business which is factored into pricing.
11. The Commission has engaged in a widespread campaign to educate payment participants, merchants and consumers about their rights and obligations. This included targeting major merchants about their practices, resulting in reductions in surcharges by taxi companies, airlines, local government and some utilities companies. I expect this work to continue.
12. A key finding by the Commission is that a main cause of excessive surcharging is that merchants do not understand their payment costs. 'Merchant service fees', which some merchants choose to recover through surcharges, vary by payment type, payment method, and merchant type. The information provided to merchants by their banks is often complex and non-transparent. This makes it difficult for merchants to understand the costs of accepting different forms of payments, impacting their ability to price goods and services and surcharge correctly.

Regulation of interchange fees

13. More recently, the Commission has focused on using its regulatory tools to reduce interchange fees within the Visa and Mastercard debit and credit networks. Interchange fees make up approximately 60 percent of the merchant service fee. In December 2024, the Commission consulted on a draft decision which it estimated would result in savings for merchants of up to \$260 million per annum. These savings would primarily accrue to small businesses, which tend to face proportionately higher payment fees and have less ability to negotiate.
14. The interchange fee levels consulted on by the Commission were considered too low by many, potentially having undesirable consequences. I understand the Commission has taken on this feedback ahead of its final decision, so estimates of savings for merchants will be less but still significant for some small businesses. The Commission's final decision, expected on 17 July, is to be implemented by:
 - 14.1. 1 December 2025 for any revised interchange fee caps for products that are currently regulated (such as domestic debit and credit), and
 - 14.2. 1 May 2026 for any new interchange fee caps for products that are not currently regulated (such as foreign-issued cards).
15. The Commission also signalled its intention to review the surcharging framework this year. However, its mandate is focussed on ensuring that surcharges do not exceed the costs to merchants of accepting card payments. It would therefore be difficult for the Commission to ban surcharging under the RPS Act.
16. *[Commercially sensitive]* As a result of the Commission's expected final decision, a small business that accepts \$330,000 of Mastercard and Visa transactions, with the average split of card types and payment methods across these networks, could expect to save on average \$500 each year. This will vary depending on the way their customers choose to pay, as well as the value of transactions.
 - 16.1. For example, a small business based in a high tourism area will likely see greater savings due to receiving more foreign-issued card payments compared to a small business that has a greater volume of customers that pay using their personal debit or EFTPOS card.
17. The Commission's decision is expected to result in significant savings for merchants. However, a study of interchange fee regulation in the European Union found no evidence that merchants passed these savings on to consumers.

Proposal to ban surcharges

18. I consider that current and potential regulation of surcharging is insufficient to protect consumers and further regulation is desirable. Overseas experience shows that regulations that limit surcharges are often ineffective, as it is typically complex for merchants to apply and for the regulator to enforce. In recent years, several jurisdictions have revisited their regulatory approaches to introduce full or partial bans on surcharges.

Likely benefits and risks of a ban

19. A ban on payment surcharges is likely to afford the following benefits:
 - 19.1. **Remove hidden fees** – Surcharges are often not revealed until the final stage of sale. A ban would ensure transparent pricing in retail settings, making it easier for consumers to compare options and understand costs regardless of the chosen payment method.
 - 19.2. **Prevent excessive surcharging** – Current surcharges often exceed actual payment processing costs, with some providers bundling unrelated services. The Commission estimates merchants may be over-recovering by up to \$65 million annually. Some even surcharge for EFTPOS, which incurs no transaction fees. A ban would eliminate such over-recovery.
 - 19.3. **Lower compliance and enforcement costs** – Merchants that surcharge would save on costs of meeting Fair Trading Act requirements, which has been difficult for some to understand. The costs of enforcement may also reduce relative to the status quo, as non-compliance will be easily detected, and consumers and payment service providers may use their influence with merchants to promote compliance.
 - 19.4. **Enhance consumers' shopping experience** – Consistent with behavioural economics literature, consumers view surcharges as a loss and equivalent discounts as a gain. As people are loss averse, they dislike the perceived loss of a surcharge. In the case of debit, some consumers see it as an unfair charge to access their own money. Based on complaints received, Consumer NZ has started a campaign to ban surcharges.
20. While banning payment surcharges is expected to deliver clear benefits for consumers and support a fairer payments system, there are some potential risks that may need to be managed:
 - 20.1. **Potential changes in consumer payment behaviour** – Removing surcharges may slightly reduce incentives to use lower-cost payment methods like EFTPOS and bank transfers. Some consumers may gravitate towards more convenient but higher-cost options, such as contactless and credit cards. While this could marginally increase costs for some merchants, the overall impact is likely to be modest. However, this cost increase is likely to be mitigated by the Commission's expected decision to lower interchange fee caps.
 - 20.2. **Potential for price adjustments** – Merchants who previously applied surcharges may choose to adjust their headline prices to recover payment costs. In such cases, all consumers regardless of payment method, would pay the same price. This would be a more transparent and consistent pricing model, though it may result in some cross-subsidisation between users of low-cost and high-cost payment types.
 - 20.3. **Impacts on small businesses** – Larger merchants often absorb payment costs or negotiate better rates. Smaller businesses, particularly in low-margin sectors, may have fewer options. While a ban could place some additional

pressure on these merchants, complementary support measures can help ease the transition. The Commission's forthcoming decision on interchange fee caps will significantly benefit small businesses.

- 20.4. **Market concentration considerations** – Visa and Mastercard currently have a large share of consumer payments. A move away from surcharging could reinforce their market position if consumers shift further towards these payment methods. However, this risk is balanced by ongoing work to promote competition, enhance transparency, and support alternative payment methods such as domestic EFTPOS and account-to-account transfers.
- 20.5. **Considerations for innovation** – The removal of price signals could make it slightly harder for emerging low-cost payment technologies to gain traction. However, the broader payments reform agenda, focused on supporting the uptake in open banking and real-time account-to-account payments, is expected to continue encouraging innovation and competition across the sector.

Ways to mitigate risks and detriments through the scope of the ban

21. I consider that these risks can be managed through the appropriate design of the scope of the ban and the timing of its implementation.
22. I propose that the ban on surcharges should initially apply to those payment networks and methods that are:
- 22.1. subject to interchange fee regulation under the RPS Act (ie Visa and Mastercard domestic debit and credit payments) or
- 22.2. otherwise do not impose transaction fees on merchants (EFTPOS).
23. If the implementation of the ban is aligned with the pending Commission decision to reduce interchange fees, then the expected material reduction in merchant services fees removes some of the justification for merchants to surcharge.
24. The competition impacts of a ban on surcharges can also be mitigated by limiting the ban to those payment methods and cards that are not typically targeted by fintechs seeking to enter the payments and banking sectors. Fintechs typically enter the payments market through online payment apps or prepaid cards (eg Wise travel cards). Allowing merchants to surcharge for Visa and Mastercard online or prepaid payments would continue to provide a margin for fintechs to compete and send signals for consumers to switch to newer low-cost payment methods.
25. As such, I propose to limit the initial ban to in-person payments (ie contactless, inserted, or swiped). This initial ban could be further extended through enabling the making of regulations under the RPS Act, following due process (including consultation with the Commerce Commission) and consistent with the purpose and principles of the RPS Act.

Other matters

26. The Commission is the responsible regulator and enforcer under the RPS Act. I propose that the Commission will be responsible for monitoring and enforcing the

ban on surcharges. Participants in the Visa and Mastercard payment networks will also be able to privately monitor and enforce the ban through the scheme rules and their contractual arrangements with merchants.

27. The RPS Act currently includes powers and sanctions for breach of a merchant surcharging standard, which I propose should also apply to the new ban on surcharges. That is, in the event of a breach, the Commission may:
 - 27.1. issue corrective notices to the merchant (with consequences for breach of a corrective notice specified in section 41 of the RPS Act), and
 - 27.2. apply to the court for pecuniary penalties (maximum of \$200,000 for an individual, or \$600,000 in any other case).
28. Additionally, a demand for a surcharge will be unenforceable and, if paid, the consumer will be entitled to refund from the merchant.
29. As a regulatory backstop, the RPS Act will continue to allow the Commission to set merchant surcharging standards for classes of payments that are not subject to the ban. This would enable the Commission to define acceptable surcharge components and associated requirements, addressing concerns about excessive fees in other payment networks if needed.

Global precedent for bans on surcharges

30. There is global precedent for bans on surcharges. The European Union bans surcharging on debit and credit card transactions that are covered by interchange fee regulation. European Commission research found only anecdotal evidence that the surcharging ban resulted in increased consumer prices.
31. The United Kingdom bans surcharges on all non-commercial debit and credit card transactions, prioritising the benefits of price transparency for consumers. The United States and Canada do not allow debit card surcharging, but surcharging for credit card payments is allowed subject to rules.
32. Australia has rules that limit surcharging for debit and credit cards by specifying what costs merchants can recover through a surcharge. In October 2024, the Australian Government announced its intention to ban debit card surcharges from January 1, 2026, subject to a review by the Reserve Bank of Australia and ensuring safeguards for both businesses and consumers. That review is currently underway. I propose to monitor these developments as the Bill progresses.

Cost-of-living Implications

33. This proposal supports the Government's priority of addressing the rising cost of living. Payment surcharges are a contributing factor to the price of everyday goods and services, with the Commission estimating that consumers pay about \$150 million annually. The ban will promote price transparency, remove excess charges, and reduce checkout friction for consumers.
34. There is a risk that a ban on surcharges could result in some merchants increasing prices of goods and services to cover costs. However, a significant majority of

consumer purchases do not incur a surcharge, including the purchase of essential goods and services from the likes of supermarkets, petrol stations, and major retailers like Mitre 10 and the Warehouse. For those merchants that currently surcharge, the Commission's interchange fee decision could partially offset the loss in surcharging revenue.

Financial Implications

35. The Commission will incur additional costs to enforce the ban, which will be partially offset by reduced costs of enforcing Fair Trading Act requirements. These costs are expected to be met within baselines. The costs should be manageable, as participants in the Visa and Mastercard payment networks will have incentives to privately monitor and enforce the ban on surcharging through scheme rules and contractual arrangements with merchants.

Legislative Implications

36. The policy outlined in this paper will be given effect through an amendment to the RPS Act. I seek agreement to add the amendment Bill to the 2025 Legislation Programme

Constitutional conventions

Impact Analysis

37. A Regulatory Impact Statement (**RIS**) has been completed and is attached. A panel of officials from the Ministry of Business, Innovation and Employment reviewed the RIS and found that it partially meets quality requirements.

Population Implications

38. There are no direct population implications.

Human Rights

39. There are no human rights implications from the proposals in this paper.

Use of external resources

40. The Ministry of Business, Innovation and Employment commissioned Axiom Economics, an economic consultancy, to produce a competition assessment of the likely impacts of a ban on payment surcharges to help inform the policy proposal in this Cabinet paper. A consultancy was required due to the specialist expertise and knowledge required for the competition assessment and the unavailability of inhouse expertise in the timeframe required.

Consultation

41. The Treasury, Ministry for Regulation, Ministry of Justice, MBIE (small business), Commerce Commission and Reserve Bank of New Zealand (**RBNZ**) have been consulted on the Cabinet paper. The Department of Prime Minister and Cabinet was informed.

42. The RBNZ notes that this proposal will accelerate the decline of the EFTPOS network. This will leave New Zealand dependent on higher cost, international alternatives. It will remove an important price signal, which are needed for efficient functioning of markets. The policy addresses a symptom – excessive or unclear surcharging – without tackling the underlying structural issues: the absence of a modern, competitive, and domestically governed payments infrastructure that offers real choice to merchants and consumers, and fee structures that transparently reflect the underlying cost. If introduced, modern domestically governed payments infrastructure will help mitigate some of the consequences of the proposed policy.

Communications

43. If the policy is agreed, I propose to announce the intention to introduce a ban on payment surcharges through an amendment to the RPS Act. The Commission is expected to release its final interchange fee decision on 17 July 2025.

Proactive Release

44. This paper will be published on MBIE's website within 30 working days after announcements have been made, subject to appropriate redactions.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1. **note** Consumer NZ has launched a campaign to ban surcharging for payment cards in response to hundreds of complaints from consumers about hidden and often excessive fees;
2. **note** the Commerce Commission estimates that consumers are paying about \$150 million annually in payment surcharges, of which it estimates \$45-65 million exceeds merchants' reasonable acceptance costs;
3. **note** the Commerce Commission has signalled its intention to review the surcharging framework this year, but a decision to ban surcharging is likely outside its cost-reflective mandate and an amendment to primary legislation is desirable to give it effect;
4. **note** the Commerce Commission intends to issue its final decision on reducing interchange fees within the Visa and Mastercard payment networks on 17 July 2025, which is to come into effect by 1 May 2026, leading to savings in payment costs for merchants;

Proposal to ban surcharges

5. **agree** to an initial ban on payment surcharges, and include the ability for scope of the ban to be further extended by regulations;
6. **agree** that the scope of the initial ban is:

- 6.1. Visa and Mastercard in-store domestic debit and credit payments (all methods, including contactless); and
- 6.2. EFTPOS in-person debit payments.
- 7. **agree** to empower the making of regulations, on the recommendation of the Minister of Commerce and Consumer Affairs, to:
 - 7.1. extend the ban to other payment methods (eg online), classes of issuer (eg foreign-issued), classes of payment (eg prepaid cards) and payment networks (eg PayPal); and
 - 7.2. provide appropriate statutory pre-requisites before a recommendation can be made, including consultation with the Commerce Commission and persons representative of affected parties;
- 8. **agree** that the Commerce Commission is empowered to monitor and enforce the ban;
- 9. **agree** that, for any breach of the ban by a merchant, the Commerce Commission may issue corrective notices or apply to the court for pecuniary penalties (maximum of \$200,000 for an individual, or \$600,000 in any other case);
- 10. **agree** that a demand for a surcharge is unenforceable and, if paid, the consumer is entitled to a refund from the merchant;

Legislative implications

- 11. **agree** to give effect to the above proposals through an amendment to the Retail Payment System Act 2022;
- 12. **agree** to add the Retail Payment System (Ban on Surcharges) Amendment Bill to the 2025 Legislation Programme Constitutional conventions
- 13. **invite** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above recommendations; and
- 14. **authorise** the Minister of Commerce and Consumer Affairs to make additional policy decisions and minor or technical changes to the policy decisions in this paper, consistent with the general policy intent, on issues that arise in drafting and passage through the House.

Authorised for lodgement

Hon Scott Simpson

Minister of Commerce and Consumer Affairs