



Taxi Non-Cash Payment Surcharge review 2019

Final Decision

24 March 2020



An appropriate citation for this paper is:

Essential Services Commission 2020, Taxi Non-Cash Payment Surcharge review 2019: Final Decision, 24 March

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Contents

1. Summary	4
Our role is to set the maximum non-cash payment surcharge in taxis	4
Analysis suggests the current maximum surcharge is too high	5
The maximum surcharge will be four per cent in most cases	6
The maximum surcharge for Cabcharge payment instruments will be six per cent	7
We will provide a transition period to allow the industry to adjust	7
We undertook an extensive consultation process	8
2. Cost analysis suggests the current maximum surcharge is too high	10
The reasonable cost of processing non-cash payments is less than four per cent	11
We used a building block model to assess the costs of taxi payment processors	11
We excluded costs that are not associated with processing non-cash payments	13
Taxi payment processors provided further information on their costs	15
3. Benchmarking suggests the current maximum is too high	19
Our benchmarking suggests the current maximum surcharge should be reduced	19
We accounted for the particular circumstances of taxi payments	20
With multiple terminals non-cash payments can be processed for less than five per cent	20
The Cabcharge payment instrument is different to other services	21
We estimated our benchmarks using EFTPOS offers and revenue data	21
4. Price structures	23
We have set two maximum surcharges	24
Two maximum surcharges meets our objectives	25
Having a different maximum surcharge for Cabcharge payment instruments should not be confusing for passengers	26
5. Submissions	28
Our consultation process	28
Taxi payment processors stated that the surcharge should be higher	29
Our decision promotes our legislative objectives	29
Two surcharges should not be confusing, but having more could be	31
Appendix A: the non-cash payments supply chain	33
Non-cash payment systems	33
How credit, debit and charge card transactions work	34
Non-cash payments in the taxi payments industry	37
Competition in Victoria for providing payment services	39
Taxi non-cash payment surcharging in other jurisdictions	40
Appendix B: our bottom-up cost assessment	45
Bottom-up cost assessment shows the current maximum surcharge is too high	45
We used a building block model to assess taxi payment processors' costs	47
We undertook a bottom-up cost assessment of Cabcharge	51

We excluded costs that are not reasonable costs of processing non-cash payments	53
Appendix C: our benchmarking assessment	59
The current maximum surcharge is high compared to our benchmark	60
We estimated our benchmarks using EFTPOS offers and revenue data	64
We estimated the monthly non-cash payment revenue for the typical taxi	65
We estimated the monthly cost for the typical taxi	65
We calculated the monthly cost as a percentage of monthly revenue	70
We considered cost differences in processing non-cash payments in taxis and the broader economy	70
We used benchmarks from Australian banks and merchant aggregators	78
Appendix D: how we have assessed the maximum surcharge	79
Our approach to this review	79
Our assessment approach helps us meet our legislated requirements	80
Appendix E: our legislative considerations	85
The commission's statutory power to determine the maximum surcharge	85
The commission's objectives	85
Factors the commission must have regard to	86
We set the maximum surcharge in taxis	87
Appendix F: regulation of non-cash payment surcharging in other industries	88
Surcharging is allowed in Australia	88
A surcharge must not exceed the average cost of acceptance	89
The RBA's guidance on surcharge rates	90
Interchange fees are also regulated by the RBA	90
Appendix G: origin of the non-cash payment surcharge	93
The surcharge was first introduced for processing paper dockets	93
The taxi industry inquiry set the maximum surcharge at five per cent	93
Other states have followed Victoria's example on the surcharge	94
Appendix H: the legislation governing our non-cash payment surcharge role	95
Appendix I: records to be kept on non-cash payment surcharges	109
Appendix J: Detailed list of matters raised by stakeholders	111
Glossary	125

1. Summary

Our final decision is that:

- the maximum non-cash payment surcharge for taxis is four per cent (inclusive of GST) for all non-cash payment transactions (non-cash payments)
- a maximum non-cash payment surcharge of six per cent (no GST payable)¹ applies to commercial passenger vehicle specific payment instruments (such as Cabcharge)
- the new maximum non-cash payment surcharges will come into effect 1 July 2020.

Our role is to set the maximum non-cash payment surcharge in taxis

Non-cash payment surcharges are fees charged to passengers, on top of the standard taxi fare, for paying by any method other than cash.

Following reforms to commercial passenger vehicle industry legislation, we began a review of the amounts of maximum non-cash payment surcharges (maximum surcharges)² for taxis in late 2018.

In setting the maximum surcharges our objectives are to:

- Promote efficiency in the non-cash payment transaction industry by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, we must ensure that persons facilitating the making of non-cash payment transactions (which include taxi drivers that accept the payment and taxi payment processors that supply the means by which transactions are processed) are able to recover the reasonable cost of accepting and processing such transactions.³
- Promote the long term interests of Victorian consumers. In seeking to achieve this objective we must have regard to the price, quality and reliability of essential services.⁴

¹ The surcharge for usage of the Cabcharge payment instrument is not subject to GST. According to Cabcharge this is because it is a financial transaction that is subject to GST on inputs (https://accounts.cabcharge.com.au/subpages/update3_cabchargegst.htm) [last accessed 7 November 2019].

² For brevity, in this document we have referred to the maximum amounts of non-cash payment surcharges as maximum surcharges.

³ Commercial Passenger Vehicle Industry Act 2017 (Vic) s. 122.

⁴ Essential Services Commission Act 2001 (Vic), s. 8.

We must also have regard to a range of other matters: such as the financial viability of the industry and the degree of and scope for competition within the industry.⁵ In making a determination we must ensure that the expected costs of the proposed regulation do not exceed the expected benefits, and that the determination takes into account and clearly articulates any trade-offs between costs and service standards.⁶ We must also adopt an approach and methodology which we consider will best meet the objectives set out above.⁷ Appendix E has more information on our role in regulating the maximum surcharge in taxis.

Analysis suggests the current maximum surcharge is too high

To set a maximum surcharge, we must form a view on how to assess the reasonable cost of accepting and processing non-cash payment transactions (processing non-cash payments).⁸ We have used benchmarking and bottom-up cost assessments to inform our view on the reasonable cost of processing non-cash payments.

These assessment techniques suggest that the current five per cent maximum surcharge⁹ is above the reasonable cost of processing non-cash payments in almost all cases. The exception is Cabcharge payment instruments, for which A2B Australia incurs issuing costs.

Following our November 2019 further draft decision, we collected further data on taxi payment processors' costs using our compulsory information gathering powers. Using this further data, our bottom-up cost assessments of the actual costs incurred by several taxi payment processors showed that a surcharge of between 3.5 and 3.9 per cent (including GST) would allow them to recover their reasonable costs of processing non-cash payments. In addition, it showed that if issuing costs are included in our bottom up cost assessment, a maximum surcharge of six per cent (no GST payable)¹⁰ would be required to recover the reasonable costs of Cabcharge payment instruments. Details of our bottom-up cost assessment can be found in chapter two.

⁵ Given that non-cash payment transactions are prescribed services, the maximum amounts of non-cash payment surcharges are prescribed prices and the non-cash payment transaction industry is a regulated industry for the purposes of the Essential Services Commission Act 2001 (Vic). We must also have regard to a number of other matters: Essential Services Commission Act 2001 (Vic), s 8A and s 33 (see Appendix E).

⁶ Essential Services Commission Act 2001 (Vic), s 33(4).

⁷ Essential Services Commission Act 2001 (Vic), s 33(2) and s. 8A(2).

⁸ For brevity, in this document we have referred to accepting and processing non-cash payment transactions as processing non-cash payments.

⁹ ESC, Determination of maximum non-cash payment surcharge for taxis (from 4 July 2019), 1 July 2019.

¹⁰ Cabcharge payment instruments are not subject to GST.

We also undertook benchmarking analysis. It suggested that it may be possible for taxis to process most non-cash payments with a surcharge of between 1.9 and 3.4 per cent (including GST). Further information on our benchmarking can be found in chapter three which explains our benchmarking analysis.

The maximum surcharge will be four per cent in most cases

Our final decision is that the maximum surcharge is four per cent (including GST) for all non-cash payments, except those using commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments).

Our view is that this maximum surcharge will promote efficiency in the non-cash payment transaction industry (taxi payments industry)¹¹ and ensure that persons facilitating the making of non-cash payments (taxi payment processors)¹² are able to recover the reasonable cost of processing non-cash payments.

This is consistent with our objectives of promoting the long term interests of Victorian consumers having regard to the price, quality and reliability of essential services. It is also consistent with promoting the financial viability of the industry.

We have reached this view on the following basis:

- our bottom-up cost assessment suggests that the reasonable cost of processing non-cash payments is currently no more than four per cent (including GST) for all payment methods except Cabcharge payment instruments and
- our benchmarking also indicates that the current maximum surcharge is above the reasonable cost of processing non-cash payments in the taxi payments industry.

We have adopted a maximum surcharge of four per cent, just above the upper bound of our estimate of reasonable costs, given the relatively narrow band of our estimates of reasonable costs.

¹¹ For brevity, in this document we have referred to the non-cash payment transaction industry as the taxi payments industry.

¹² We acknowledge that this may also be taxi drivers, operators or networks but to make reading easier we have used the term **taxi payment processors** to refer to **persons facilitating the making of non-cash payments** throughout this document.

The maximum surcharge for Cabcharge payment instruments will be six per cent

Our final decision is to set a maximum surcharge of six per cent (no GST payable) for the Cabcharge payment instrument.

Presently, A2B Australia is the only taxi payment processor that issues a commercial passenger vehicle specific payment instrument. This maximum surcharge would also apply to any other future commercial passenger vehicle specific payment instruments taxi payment processors may develop.

We have calculated that if we were to have a uniform maximum surcharge that was high enough to allow recovery of all reasonable costs associated with processing Cabcharge payment instruments, then passengers that did not use Cabcharge payment instruments would have to pay more than the reasonable cost of the services they use. Additionally, taxi payment processors that did not process Cabcharge payment instruments would recover more than their reasonable costs of supply.

We do not think this approach would best achieve our objectives of promoting efficiency in the non-cash payment transaction industry and promoting the long term interests of Victorian consumers. For this reason, we have set a separate maximum surcharge for users of Cabcharge payment instruments – at six per cent. This ensures that A2B Australia can recover the reasonable cost of processing Cabcharge payment instruments.

The surcharge we set is a maximum only. If A2B Australia, or any new provider of a commercial passenger vehicle specific payment instrument, did not want to charge a surcharge of six per cent, it would be able to recover the remainder of its issuing costs through direct fees to account holders. That is, a decision to set the maximum surcharge at six per cent for Cabcharge payment instruments gives A2B Australia (and other firms that wish to offer a similar product) the flexibility to determine, by reference to their commercial considerations, the proportion of issuing costs they may seek to recover via the surcharge.

We will provide a transition period to allow the industry to adjust

To reduce the impact of any industry disruption that may be caused by the requirement to re-program payment terminals, and having regard to the current challenges posed by the coronavirus pandemic, we have decided that the new maximum surcharges will come into effect from 1 July 2020. This should provide taxi payment processors the necessary time to update the software on their payment terminals.

In our May 2019 draft and our November 2019 further draft decisions we proposed a transition period between making our final decision and the implementation date for the new maximum

surcharges coming into effect. This was to provide taxi payment processors ample time to update the software on their payment terminals.

In making this final decision, including determining the implementation date, we have also carefully considered the uncertainty and challenges associated with the coronavirus pandemic. Since we made our further draft decision one taxi payment processor requested 'that the commission delay the release of its review pending an understanding and quantification of the impact of the changes required to address coronavirus'.¹³

The ESC is acutely aware of the uncertainties facing all industries, including the taxi industry and the taxi non-cash payment transaction industry as a result of the coronavirus pandemic and measures being taken in response to the coronavirus pandemic. One taxi payment processor has noted that 'it is difficult to accurately predict the likely influence of the coronavirus pandemic on financial performance, although it is possible that broader impacts could be mitigated by the positioning of personal transport as safer than public transport in the event of a pandemic'.¹⁴

We are also aware of the difficulties the coronavirus pandemic is creating for the Victorian community more broadly, including users of taxis who are paying by means of non-cash payment transaction. To the extent that those users are currently paying more than they should be, delaying our decision to reduce the maximum surcharge (including the implementation date) would adversely affect those users.

Therefore, having regard to our legislative objectives and requirements, we have made a final decision based on the information currently available to us and have concluded that a 1 July 2020 commencement date best meets those objectives and requirements. To the extent it becomes apparent that more time is required to update payment terminals as a result of the coronavirus pandemic, or the coronavirus pandemic has an ongoing impact on payment processors' financial performance, we have the ability to amend or replace our price determination if necessary.

We undertook an extensive consultation process

Throughout the course of our review we sought information from stakeholders to inform our final decision, and provided stakeholders with extensive opportunities to provide their views.

¹³ Andrew Skelton, Letter From CEO of A2B Australia to Chairperson and CEO of ESC, 13 March 2020.

¹⁴ A2B Australia, 1H20 Results presentation February 2020, p. 20, available at: <https://www.asx.com.au/asxpdf/20200227/pdf/44fhz8k4tkpc0h.pdf> [last accessed 19 March 2020].

Our original plan was to release a consultation paper in December 2018, a draft decision in April 2019 and a final decision in July 2019. Ultimately we extended our review process by nine months to give taxi payment processors more time to provide us information.

We released our consultation paper in December 2018, our draft decision paper in May 2019 and our further draft decision paper in November 2019. We offered stakeholders the opportunity to make submissions in response to each of these papers and considered all matters raised in submissions in making this March 2020 final decision.

In addition to this, during the course of our review we have met with stakeholders, issued voluntary information requests, sought to have cost and revenue data audited, and obtained further information using our compulsory information gathering powers.

During the course of this review we have received a number of confidential submissions. We have carefully examined these submissions and considered the matters they raise. However, we have not outlined our response to each matter in this paper due to the confidentiality claims over those submissions.

Further details on the steps in our consultation process can be found in chapter five.

2. Cost analysis suggests the current maximum surcharge is too high

This chapter summarises how we carried out our bottom-up cost assessment. Appendix B has a detailed discussion of our bottom-up cost assessment.

Our updated bottom-up cost assessment shows the reasonable cost of processing non-cash payments is no more than four per cent.

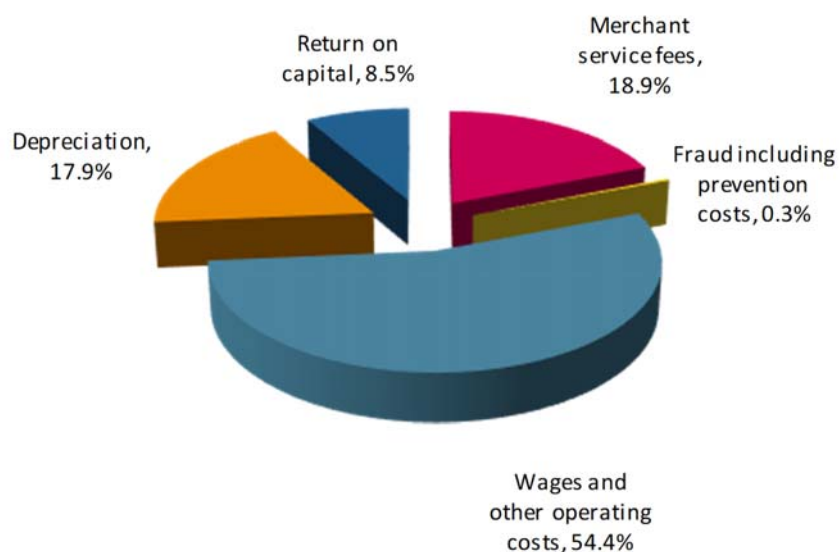
Our analysis of taxi payment processors' actual costs showed that the reasonable cost of processing non-cash payments ranged between 3.5 per cent and 3.9 per cent for most payment methods.

However, we note that if all reasonable issuing costs were to be recovered through a surcharge, a maximum surcharge of six per cent for Cabcharge payment instruments (and other future commercial passenger vehicle specific payment instruments) would be required.

We used information provided to us by taxi payment processors to conduct this analysis.

Figure 2.1 shows the average share of the cost categories used in our assessment. We have not presented the costs of each payment processor. Taxi payment processors claimed the dollar amounts for the cost categories they incur as commercially sensitive.

Figure 2.1: breakdown of costs associated with processing non-cash payments in taxis (weighted average across processors)



Source: taxi payment processors and ESC analysis

The reasonable cost of processing non-cash payments is less than four per cent

Our bottom-up cost analysis of taxi payment processors' actual costs suggests that [REDACTED] costs range from between 3.5 and 3.9 per cent. In relation to two processors who claimed their costs exceeded 5%, the commission formed the view that those costs, which were materially higher than other taxi payment processors' costs, were unreasonable. As a result, a maximum surcharge of four per cent will not jeopardise the financial viability of the taxi payments industry and it will ensure that taxi payment processors are able to recover the reasonable cost of processing non-cash payments.

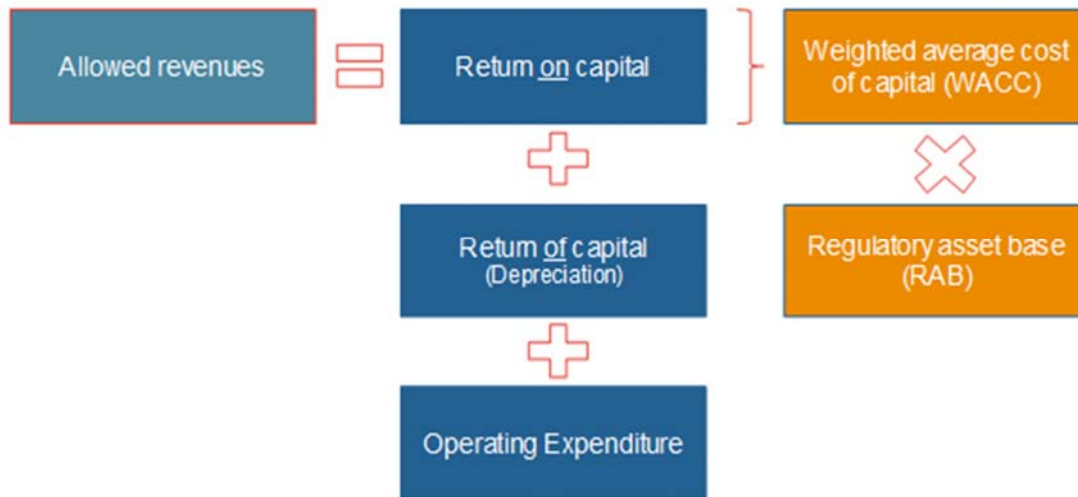
Our bottom-up cost analysis also shows that cost reductions appear to be attainable for most taxi payment processors. We are unable to provide further detail publicly about the potential cost reductions for specific payment processors or which of their costs are above a reasonable level and by how much. Taxi payment processors claimed that their cost data are commercially sensitive.

We used a building block model to assess the costs of taxi payment processors

We used a 'building block' model for our bottom-up cost assessment of processing non-cash payments in taxis. The building block model is widely used by economic regulators in Australia.

Under a 'building block' model, the allowed revenue for a regulated firm is calculated by reference to the sum of the relevant cost components or building blocks for that firm. These building blocks commonly include allowances for a return on capital (or rate of return), return of capital (or depreciation) and operating expenditure. Figure 2.2 below is a high-level illustration of the different components of the building block methodology.

Figure 2.2: illustration of a pre-tax building block model



- **Return on capital:** This is the regulated business' allowed earnings that reflect the opportunity cost of its fixed and working capital. It is calculated by first establishing an asset base comprising the value of the assets used in providing the service (a regulatory asset base, or RAB) and multiplying it by an estimate of the (pre-tax) weighted average cost of capital (WACC).
- **Return of capital (also known as depreciation):** The aim of providing this allowance is to enable the regulated business to recover the purchase price of its investments/assets over their useful life. It is usually calculated as the purchase price of assets divided by their useful life.
- **Operating expenditure:** These are the annual expenses required to run the business. Operating expenditure is often recurrent in nature.

After removing costs that are not incurred by taxi payment processors with respect to processing non-cash payments (for example driver commissions or fast food discounts), we then used the remaining costs to estimate the actual building block costs for each firm by summing up all the building blocks. This was turned into the surcharge required by each firm to recover its reasonable costs of processing non-cash payments by dividing the building block costs for that firm by the total dollar value of fares it processes.

$$\text{Implied surcharge} = \frac{\text{building block costs}}{\text{total fares processed}}$$

We excluded costs that are not associated with processing non-cash payments

It is important that the building blocks are limited to the cost of services that are incurred in processing non-cash payments. Including other costs would overstate the required revenue and allow regulated businesses to potentially recover the costs of unregulated services from the users of its regulated service (i.e. non-cash payment transactions). In other words, paying by non-cash instruments would be funding costs unrelated to processing those transactions.

The Taxi Industry Inquiry, the recommendations of which were the basis for the legislation under which we regulate non-cash payment surcharges, identified this issue in the taxi payments industry. It noted that taxi payment processors used surcharge revenue to provide rebates to drivers, and booking service providers, that used their systems. It also noted that these rebates, which were not linked to any identifiable cost, served to demonstrate that the surcharge exceeded the resource cost of providing the payment service.¹⁵

When assessing the costs submitted to us by taxi payment processors, we identified that they continued to provide rebates to drivers and booking service providers.

In addition to this, we also identified that they also provide supplementary services to drivers, funded with revenue from the non-cash payment surcharge, that are not reasonable costs of processing non-cash payments. These include things such as: fuel discounts, immediate cash out facilities and taxi meter applications.

Where possible we excluded costs that are not reasonable costs of processing non-cash payments

Where possible, in our bottom-up cost assessment we have removed the cost of additional services that are not reasonable costs of processing non-cash payments.

To estimate the reasonable costs of processing non-cash payments, in our bottom-up cost assessment we removed the costs associated with the following services, facilities and incentives, where the data provided allowed us to isolate those costs.

These are costs that we do not consider to be reasonable costs of processing non-cash payments:

- **Commissions paid to drivers**
- **Commissions paid to booking service providers**
- **Vouchers, fuel discounts, refuelling and car wash stations, driver lounge and fast food facilities**

¹⁵ Taxi Industry Inquiry, Customers First: Service, Safety, Choice, Final Report, September 2012, p.208.

- **Docket cashing:** Taxi drivers can withdraw their non-cash takings immediately from taxi payment processors' cashing booths or agents. This service is not part of processing non-cash payments. Further, taxi payment processors, or their agents, sometimes charge drivers a fee for these services. These fees should recover the costs of docket cashing. While docket cashing is not a cost of processing non-cash payments, we have permitted allowances for driver facilities (such as those relating to driver sign-up) where appropriate.
- **Booking services:** Booking services are not part of processing non-cash payments.
- **Driver payment cards:** These costs are not reasonable costs of processing non-cash payments. Taxi payment processors could avoid these costs by depositing payments directly to taxi drivers' bank accounts.
- **Terminal installation costs:** A2B Australia FAREWAYplus terminals are installed in taxis. As discussed below, that installation provides little to no benefit to people paying through a FAREWAYplus terminal. Therefore, we do not consider these costs to be reasonable costs of processing non-cash payments.
- **Lost property:** This is a business administration cost that is attributable to the supply of commercial passenger vehicle services. It is not a cost of processing non-cash payments.

Another exclusion, although not in the nature of a service, facility or incentive, is an allowance for company tax. We did not include a tax building block because we have provided an allowance for tax by using a pre-tax WACC to calculate the return on capital. We have used a pre-tax WACC as this avoids the difficulties of allocating taxation costs to different parts of businesses providing different services and operating across different states.

We could not remove all costs that are not reasonable costs of processing non-cash payments

The level of detail in the information provided to us by taxi payment processors does not allow us to remove all costs related to non-regulated services with accuracy.

Where we have been unable to precisely identify these costs, rather than risk removing reasonable costs from our bottom-up cost assessment, we left them in our estimate of actual building block costs. A notable example of this is the taxi meters that are part of A2B Australia's payment terminals. The meter provides no function specific to non-cash payments but is integral to the provision of taxi services.

This means our bottom-up cost assessment is likely to include some costs related to non-regulated services. In our further draft decision we used information that had been provided voluntarily by taxi payment processors. Taxi payment processors did not provide us with all of the information we

requested. To obtain the information we required we decided to use our compulsory information gathering powers. We have used the information we obtained to make our final decision.¹⁶

We sent notices to taxi payment processors requiring them to provide relevant information. We tailored the request so as not to impose an unreasonable burden on recipients and to reduce the cost of compliance. To do this we requested information:

- on cost categories taxi payment processors had provided information on before
- taxi payment processors were likely to possess already
- taxi payment processors would be able to produce without significant cost.

Asking for the exact cost categories we would need to exclude all costs related to non-regulated services precisely would have placed an excessive cost burden on the taxi payments industry relative to the potential public benefit of the additional data. It may also not have been possible for some taxi payment processors to provide that information at a granular level given the manner in which business records have been historically maintained. As a result of this we have still not been able to isolate all costs related to non-regulated services.

Nonetheless, the additional information provided under our compulsory information gathering powers has enhanced the accuracy of our bottom-up cost assessment.

Taxi payment processors provided further information on their costs

After we received responses from taxi payment processors to our notices to provide information and/or documents, we updated our bottom-up cost analysis to take into account the information received. In most cases the required surcharge calculated through our bottom-up cost models decreased.

Fees paid to booking service providers

A2B Australia pays booking service providers fees to install, maintain and administer payment terminals.¹⁷

In response to our notice to provide information and documents, A2B Australia provided information on the installation of its FAREWAYplus terminals. This information showed us that installation provides little to no benefit to people paying through a FAREWAYplus terminal. As a result, we have removed from our bottom-up cost estimate an allowance for FAREWAYplus

¹⁶ Section 37 of the Essential Services Commission Act 2001 (Vic) provides that, if the commission considers that it is necessary to do so for the purposes of performing its functions or exercising its powers, it may require a person that the commission has reason to believe has any relevant information or document to provide that information or document to the commission.

¹⁷ CRA, Assessment of A2B's reasonable costs of processing non-cash payments, p. 19, 12 August 2019.

terminal installation costs from the booking service provider fees that A2B Australia pays because we do not consider these costs to be reasonable costs of processing non-cash payments.

We received more information on taxi payment processors' revenue streams

Most taxi payment processors have revenue streams related to their non-cash payment processing businesses outside of the revenue that they receive from surcharges. These include things such as docket cashing, account fees, multi-purpose taxi program (MPTP) revenues, terminal rental fees and chargeback recoveries.

We received further information from taxi payment processors on the amounts related to these revenue streams. Where taxi payment processors have not provided the costs associated with these revenue streams, we subtracted the revenues from taxi payment processors' building block costs when calculating the implied surcharge. If taxi payment processors did identify the costs associated with those revenue streams we removed the costs and did not subtract the revenues from costs.

Our cost assessment is based on historical data. Going forward these revenue streams may change. For example A2B Australia did not include any terminal rental fees (which it calls subscription revenue) in its data. We note that A2B Australia has indicated that going forward it would 'pivot towards rental models rather than relying on service fee generation'.¹⁸ If there are material changes in revenue streams associated with taxi payment processors non-cash payment processing services we may revisit our determination.

Some taxi payment processors submitted that their costs were above five per cent of the value of fares they process

In response to our compulsory information gathering notices two taxi payment processors submitted information that suggested that their actual costs were higher than four per cent

We consider that those costs are in excess of the reasonable cost of processing non-cash payments. This is illustrated by how significantly some of the cost categories for these processors exceed the costs of other taxi payment processors.

¹⁸ A2B Australia, CEO and Managing Director's address, 21 November 2019, p. 2, available at: <https://www.asx.com.au/asxpdf/20191121/pdf/44bsyhvdbl7s.pdf>, [last accessed 10 March 2020].

Reasonable costs and actual costs may differ

Our decision takes account of the potential difference between ‘reasonable’ costs and actual costs. In our Consultation Paper we suggested the following definition of ‘reasonable costs’:

We consider the term 'reasonable cost' to mean costs incurred in accepting and processing noncash payment transactions, which are moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability. The reasonable cost, upon which the maximum surcharge would be based, may differ to any individual firm's actual costs. A firm incurring a cost does not, in itself, make a cost reasonable.¹⁹

This final decision uses this definition.

Examples of why taxi payment processors' actual costs may be higher than the reasonable cost of processing non-cash payments include:

- the payment processor's actual costs for its non-cash payments business include costs from other, non-regulated, parts of its businesses (which we have not been able to exclude completely)
- the payment processor's costs include various incentives provided to drivers to use their services which are not part of the non-cash payment processing service
- the payment processor may be operating at such a small scale that it is not possible for it to process and accept non-cash payments at an otherwise reasonable cost.

Reasonable cost and efficient cost

In making this decision we have focussed on the concept of “reasonable cost” as opposed to “efficient cost”. In making our decision, we must ensure that taxi payment processors are able to recover the reasonable cost of accepting and processing non-cash payments.

In a regulatory context, efficient costs are sometimes defined as the lowest long term financially sustainable cost for a given level of service quality. In this connection, “reasonable cost” is likely to be above “efficient cost”. However, the legislative requirement that we ensure that taxi payment processors are able to recover the reasonable cost of accepting and processing non-cash payments does not necessarily require that the surcharge be set so that all processors recover their actual costs regardless of the level of those costs. It requires us to make an assessment as to what reasonable costs are and ensure that processors can recover those costs. Doing so is

¹⁹ Essential Services Commission 2018, Taxi non-cash payment surcharge review 2019, Consultation paper, 11 December, p. 9.

consistent with the notion of promoting efficiency and having regard to efficient costs, without having to determine an efficient cost level.

3. Benchmarking suggests the current maximum is too high

This chapter summarises how we carried out our benchmarking assessment. Appendix C provides a more detailed discussion.

As part of our benchmarking, we looked at charges from payment processors to small businesses for processing non-cash payments, with appropriate adjustments to reflect the particular circumstances of the taxi payments industry and taxi non-cash payment transactions. Those charges represent the **cost** of processing non-cash payments for small businesses with revenues similar to those earned by taxis. We have used those costs as our benchmarks. Our benchmarking does not include the costs of issuing payment instruments or costs of blended services (for example, providing payment processing **with** credit services).

This chapter summarises our benchmarking analysis. Appendix C contains more details. All surcharges in this chapter are presented inclusive of GST.

Our benchmarking suggests the current maximum surcharge should be reduced

Our benchmarking suggests that taxis may be able to process non-cash payments at a cost between 1.9 and 3.4 per cent.

We consider that payment terminals from banks and merchant aggregators, in Australia, are appropriate services to consider when benchmarking the reasonable cost of processing non-cash payments. These payment terminals provide similar services to consumers that payment terminals in taxis provide to passengers: this makes the services suitable for benchmarking purposes with appropriate adjustments to reflect the particular circumstances of the taxi payments industry and taxi non-cash payment transactions.

We estimated benchmarks for EFTPOS and mPOS terminals generally available to small businesses. EFTPOS terminals can provide the same service as the terminals currently used by taxi service providers. We consider that the costs of EFTPOS terminals are likely to be more comparable to the terminals used in the taxi payments industry relative to mPOS terminals, and so have used them for our benchmarks. All payment terminals included in our benchmarking have 3G mobile connectivity and could be used in a taxi.

We accounted for the particular circumstances of taxi payments

In considering benchmark offers from other payment processors, we recognise that there are some factors that could influence the extent to which we can apply our benchmarking to the taxi payments industry. The main differences between taxis and merchants in the broader economy are that taxis often use multiple payment terminals.

As a condition of their vehicle registration, all taxis must have a terminal that can process multi-purpose taxi program (MPTP) subsidies (see appendix C for further details).²⁰ These primary terminals are often provided by the taxi's booking service provider. However, in discussions with drivers, booking service providers and payment processors, we learnt that many drivers also have their own secondary terminal to benefit from the better terms, including incentives and cash flow control, offered by other taxi payment processors.

We accounted for the practice of drivers having their own terminals by estimating the benchmark cost of processing non-cash payments for a taxi which has multiple terminals used in it.

The difference between having one terminal or multiple terminals is that with multiple terminals fewer transactions are processed through each terminal. The costs of processing non-cash payments must then be recovered from a smaller number of transactions.

Another key difference is that there is a high churn of taxi drivers and that drivers might not meet the criteria to receive a payment terminal from a traditional financial institution. We have not made an adjustment for this in our benchmarking, but cost data we collected from payment processors suggest that this is likely to lead to an increase in costs of less than one percentage point of the value of fares processed.

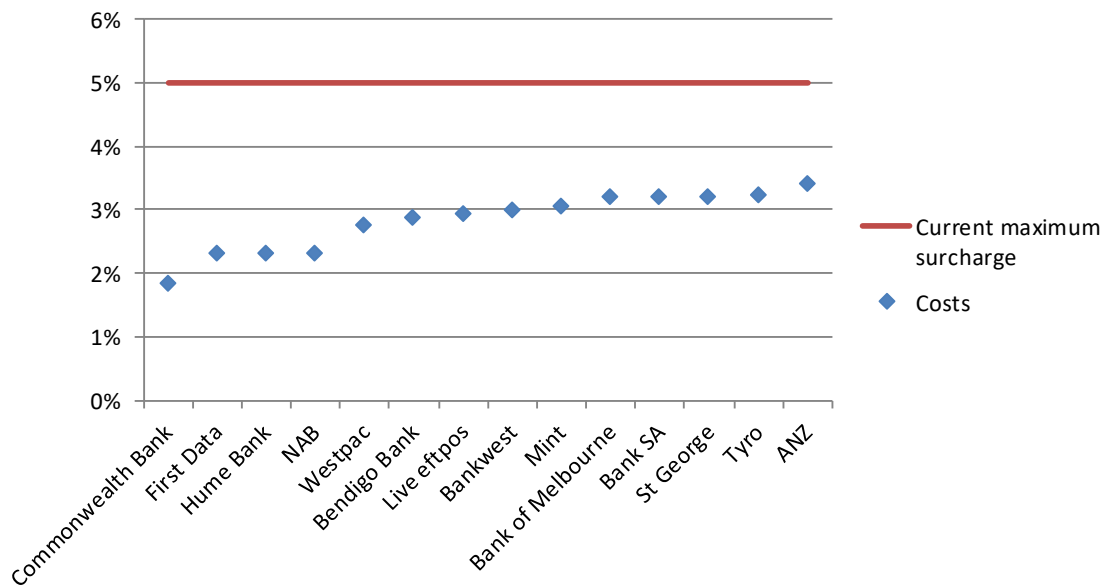
Further detail of our consideration of other potential differences between non-cash payments in the taxi payments industry and the broader economy is set out in appendix C.

With multiple terminals non-cash payments can be processed for less than five per cent

When assuming that multiple terminals are used, our benchmarking shows that the cost of non-cash payment processing for small businesses, with similar revenues to the typical taxi, ranges from 1.9 per cent and 3.4 per cent. Figure 3.1 shows a comparison of the current maximum surcharge and non-cash payment processing offers for small businesses using multiple terminals.

²⁰ CPVV, commercial passenger vehicle registration conditions – definitions, available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions> (last accessed 12 February 2020).

Figure 3.1: offers for EFTPOS terminals (multiple terminals)



Source: payment processors' websites, taxi payment processors and ESC analysis

Again, we note that, assuming multiple terminals are used, Live eftpos can provide non-cash payment processing at a cost of 2.9 per cent.

The Cabcharge payment instrument is different to other services

We did not identify any benchmark services that are directly comparable to Cabcharge payment instruments. Cabcharge payment instruments provide a service similar to charge cards such as American Express and Diners Club, but they also provide account holders with additional services.

In particular they allow greater control of card usage. This is done through using a combination of different payment instruments (single use cards, plastic cards, and digital passes) and geographical usage information.

For those reasons, our estimate of the quantum of the reasonable cost of processing non-cash payments using Cabcharge payment instruments is based mainly on our bottom-up cost assessment.

We estimated our benchmarks using EFTPOS offers and revenue data

Our benchmarks are calculated using monthly turnover for non-cash payments for the typical taxi and the monthly cost of processing non-cash payments.

Monthly turnover

The monthly revenue per taxi is derived from the data provided by taxi payment processors. It is calculated as the average fares processed per terminal multiplied by two.

This assumption has been made to reflect the fact that many taxis use two (or more) payment terminals. It produces a monthly non-cash payment turnover of \$4,392 per taxi.

Data we received from taxi payment processors showed the average monthly turnover per terminal is \$2,196. This number differs to the figure we used in our November 2019 further draft decision as we have since received additional revenue information from taxi payment processors.

We are aware that in some cases more than two terminals may be in use in each taxi. Many drivers have their own terminal. Often these drivers do not own their own taxi and work as bailee drivers in several taxis.

However, this will not affect our benchmarking results for multiple terminals (figure 3.2). Our benchmarking is based on actual monthly turnover **per terminal** in 2019 as provided by taxi payment processors.

This means that regardless of the number of terminals we assume are in use in the typical taxi, the monthly turnover per terminal would be the same. Only the total turnover for the typical taxi would be higher leading to even lower implied surcharges for our single terminal benchmarking (figure 3.1).

Monthly cost

The monthly cost is based on publicly available offers for EFTPOS terminals for small businesses from payment processors servicing the entire economy (including taxis if drivers chose to utilise their services).

This includes monthly fees, merchant service fees, and business account fees. We reviewed these publicly available offers and updated our benchmarking to account for any changes in costs before making our final decision.

4. Price structures

Our final decision is that there will be two maximum surcharges: one for commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments) and one for all other payment instruments.

After considering submissions from stakeholders, including responses to our further draft decision, we have decided that there will be two maximum surcharges.

In our further draft decision we proposed having two maximum surcharges:

- one for Cabcharge payment instruments (because A2B Australia incurs additional issuing costs for this service²¹) and
- one for all other payment instruments (because taxi payment processors do not incur these additional issuing costs).

We accept that A2B Australia should have the flexibility to recover the reasonable cost of processing Cabcharge payment instruments through a higher surcharge. We do not consider it reasonable to increase the maximum non-cash payment surcharges for all payment instruments to reflect costs specific to Cabcharge payment instruments. Such an approach could result in passengers who did not use Cabcharge payment instruments paying more than the reasonable cost of the services they use. We do not think this approach would best achieve our objectives of promoting efficiency in the non-cash payment transaction industry and promoting the long term interests of Victorian consumers.

We also consider that having a separate maximum surcharge for Cabcharge payment instruments will not be confusing for passengers.

At present, A2B Australia is the only taxi payment processor operating a payment scheme. The higher maximum surcharge would also apply to any other new commercial passenger vehicle specific payment instruments taxi payment processors may develop. If A2B Australia (or other commercial passenger vehicle specific payment instrument providers) were to significantly increase the fees it charges its account holders we could vary our determination to decrease the applicable maximum surcharge to reflect the increase in account fees.

²¹ Although A2B incurs no merchant service fees for Cabcharge payment instruments, it incurs issuing costs which mean in net terms its costs are higher than for other payment instruments.

We have set two maximum surcharges

Our final decision is to set a:

- maximum surcharge of six per cent (no GST payable) for commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments)
- maximum surcharge of four per cent (incl. GST) for all other payment instruments.

This is consistent with our further draft decision. In their submissions on our further draft decision, both GM Cabs²² and CabFare²³ stated that a four per cent surcharge is insufficient to recover the cost of processing non-Cabcharge payment instruments. We analysed additional information provided by the industry after the further draft decision. The additional information does not materially change our assessment and we confirm the finding in our further draft decision that the reasonable costs of processing non-cash payments in taxis is between 3.5 per cent and 3.9 per cent (see chapter 2).

Our bottom-up cost assessment for Cabcharge payment instruments showed that if A2B Australia were to recover reasonable issuing and acquiring costs through a surcharge, a six per cent surcharge on Cabcharge payment instruments would be appropriate. The difference between the two surcharges relates to additional net costs²⁴ associated with issuing payment instruments.

We acknowledge that our final and further draft decisions are different to our May 2019 draft decision. In our May 2019 draft decision, we set a single maximum surcharge for all types of payment instruments. In making that decision, we did not include all issuing costs for Cabcharge payment instruments in that bottom-up cost assessment.

Following consideration of submissions on our May draft decision, we decided to propose a separate surcharge for Cabcharge payment instruments in our further draft decision because:

1. A2B Australia expressed concern that our proposed single maximum surcharge would not allow it to recover the reasonable costs of supplying its Cabcharge payment instruments. A2B Australia was also concerned that restrictions on the share of issuing costs it can recover through the maximum surcharge could put it at a competitive disadvantage to other three party payment schemes.²⁵

²² GM Cabs, submission received 9 January 2020.

²³ CabFare, RE: Draft Determination on Taxi Non-Cash Surcharges dated 11 November 2019, 31 January 2020.

²⁴ A2B avoids the payment of merchant service fees on these transactions, but incurs issuing costs which increase costs in total.

²⁵ CRA, Assessment of A2B's reasonable costs of processing non-cash payments, pp. 14-15, 12 August 2019.

2. A2B Australia's cost information indicates that if all Cabcharge payment instrument issuing costs were to be included, the maximum surcharge would have to be much higher than it would need to be to recover the reasonable cost of processing other payment instruments commonly used in taxis, such as Visa or MasterCard.

Having a separate surcharge that reflects the different cost structure for Cabcharge payment instruments avoids passengers:

- making payment through a Cabcharge terminal using another instrument (for example, American Express, Eftpos, MasterCard, or Visa) paying for some of the costs of supplying Cabcharge payment instruments
- making payment through terminals that cannot process Cabcharge payment instruments being exposed to potentially paying more than the reasonable cost of supplying acceptance and processing services
- being exposed to potentially paying more than the reasonable cost of supplying acceptance and processing services in total, which would be inefficient and would not be in the long term interests of those consumers.

For these reasons, setting a single maximum surcharge would not achieve our objectives of promoting efficiency in the non-cash payment transaction industry and promoting the long term interests of Victorian consumers.

In its submission on our further draft decision, GM Cabs raised concerns about whether allowing A2B Australia a six per cent maximum surcharge on Cabcharge payment instruments would provide A2B Australia with a competitive advantage. We do not think that it will provide a competitive advantage because the additional revenue only allows the recovery of additional issuing costs, which non-Cabcharge payment instruments do not incur. Both surcharges are based on reasonable costs so we do not expect that the differential rates will provide a competitive advantage.

Two maximum surcharges meets our objectives

Setting a separate surcharge for commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments) allows surcharges for processing them to more closely reflect their reasonable costs. It will also allow A2B Australia to determine an appropriate balance of charges to facilitate the recovery of its issuing costs in processing Cabcharge payment instruments.

Issuing costs are the costs associated with a payment system providing a card to its card holders. These include things such as card production and account management. Various existing card schemes, such as Visa and MasterCard, facilitate the recovery of some card issuing costs from acquiring transactions through interchange fees. Other card schemes, such as American Express,

have no interchange fees because they act as both acquirers and issuers, but may recover costs both from scheme merchants and directly from card holders. Cabcharge is broadly similar to those card schemes as it has no interchange fees but can charge card holders either directly via account fees or indirectly via transactions surcharges.

Cabcharge account holders are ultimately responsible for the cost of account fees and non-cash payment surcharges. In this respect, they will be no worse off if A2B Australia recovered its issuing costs through account fees or through a higher surcharge on fares.

Consistent with our further draft decision, we have decided that we will:

- exclude Cabcharge payment instrument issuing costs from our bottom up assessment of acceptance and processing costs for non-Cabcharge payment instruments
- include issuing costs in determining a **maximum** surcharge for payment via Cabcharge payment instruments. This will allow A2B Australia to choose how it recovers its issuing costs through the higher maximum surcharge (up to six per cent) or, alternatively, through direct fees to account holders.

We consider that this approach will promote efficiency in the non-cash payment transaction industry and the long term interests of consumers having regard to the price, quality and reliability of essential services, while ensuring that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions. It also accounts for the degree of, and scope for, competition within the taxi payments industry.

Our surcharge will not put Cabcharge payment instruments at a disadvantage relative to other payment schemes.²⁶ Further, it will not put other payment schemes (or taxi payment processors) at a disadvantage to Cabcharge payment instruments because both surcharges relate to their respective reasonable costs.

Having a different maximum surcharge for Cabcharge payment instruments should not be confusing for passengers

As a general principle, we would prefer a single maximum surcharge to avoid creating customer confusion and potential for mis-charging. We said this in the May 2019 draft decision. We also acknowledge that the majority of submissions in response to our consultation paper supported a

²⁶ We note that the Taxi Industry Inquiry found that “the proposed regulation of service fees should not limit Cabcharge’s ability to compete with other payment instruments (such as Visa branded cards). Cabcharge can still compete with other non-taxi-specific instruments because it has a billing relationship with its card holders and can levy any fees associated with the provision of payments services.”

single maximum surcharge.²⁷ However, on further reflection and having regard to the evidence before us, we now consider that a separate maximum surcharge for Cabcharge payment instruments would not create confusion among consumers.

Cabcharge payment instruments are generally used by employees of corporations and government agencies which have corporate accounts with A2B Australia. When taking a taxi, a passenger with a Cabcharge payment instrument will use the instrument issued by their employer. It is their employer's account manager who will make the decision on which payment method to use for their business: not the employee.

The Cabcharge payment system offers benefits to users of that system. Users will be able to assess the benefits of that system and the costs of using that system via the higher surcharge (if A2B Australia chooses to recover some or all of its issuing costs through a surcharge). Passengers that do not use Cabcharge payment instruments will not be affected.

CabFare's submission responding to the further final decision questioned whether multiple surcharges would generate confusion, citing the current practice of charging high merchant fees for premium cards such as American Express. It also asked whether the non-cash payment surcharge could vary by the purpose of the ride (e.g. business/government or personal trip) or by the type of card used.

In relation to the purpose of the ride, CabFare submit that premium cards (i.e. American Express or Diners Club) are used by government and business, who have corporate accounts. But premium cards are also commonly held by individuals. It would be difficult for a cab driver to differentiate between business and personal use at the time of payment, creating the opportunity for mis-pricing and increasing the likelihood of dispute. In our view, this does not seem to be in anybody's interest. This is in contrast to Cabcharge payment instruments, where individuals do not tend to hold personal accounts.

In relation to differentiating by card type, having different surcharges for different payments could create opportunities for consumer confusion or exploitation at the time of payment. There are many different payment methods available and, in most cases, with the exception of Cabcharge payment (or any new commercial passenger vehicle specific payment) instruments, differences in processing cost between payment methods are a relatively small share of the total cost of payment processing in taxis.

²⁷ Essential Services Commission 2019, Taxi non-cash payment surcharge review 2019, Draft Decision, 30 May, p. 15.

5. Submissions

In addition to submissions and feedback we received throughout the review, we received submissions from A2B Australia, CabFare and GM Cabs and two confidential submissions in response to our further draft decision.

This chapter summarises our consultation process and stakeholders' views on our further draft decision.²⁸

Appendix J contains more details about the submissions we received and our responses.

Our consultation process

Throughout the course of our review we have given stakeholders opportunities to provide information and share their views. Table 5.1 below summarises the various steps we have taken as part of our consultation process.

Table 5.1: Non-cash payment surcharge review timeline

Activity	Date
Initial meetings with stakeholders	October to November 2018
Consultation paper released	11 December 2018
Information request sent to taxi payment processors	19 December 2018
Close of submissions on consultation paper	4 February 2019
Close of submissions in response to information request	8 February 2019
Further questions on responses to information request	March to May 2019
Draft decision released	30 May 2019
Meetings with stakeholders on draft decision	June to August 2019
Deadline for submissions on first determination	24 June 2019
First determination	1 July 2019
Close of submissions on draft decision	22 July 2019
Further draft decision released	11 November 2019
Request for information via compulsory information gathering powers	9 December 2019

²⁸ Our further draft decision outlined submissions to the initial draft decision.

Close of submissions on further draft decision	16 December 2019
Deadline for response to request for information via compulsory information gathering powers	31 January 2020
Release of final report and second price determination	24 March 2020

Taxi payment processors stated that the surcharge should be higher

GM Cabs submitted that the proposed surcharge for non-Cabcharge payment instruments would 'provide an insufficient return and an inability to continue operations in Victoria post the 3G shutdown date.' [REDACTED]

After we released our further draft decision we used our compulsory information gathering powers to collect cost information from taxi payment processors. We considered the information and cost information received in preparing our final decision.

We updated our analysis to include this new information. The new cost data does not materially affect the outcomes of our bottom up cost assessment.

Our overall assessment with the updated information shows that the reasonable cost of processing non-cash payments is presently just below four per cent, with most taxi payment processors' reasonable costs in 2019 being between 3.5 per cent and 3.9 per cent of taxi fares processed.

Our decision promotes our legislative objectives

CabFare queried the basis of the maximum surcharges that we proposed in our further draft decision.

In undertaking this review we have had regard to both the requirements of the *Commercial Passenger Vehicle Industry Act 2017* and the *Essential Services Commission Act 2001*.

The *Commercial Passenger Vehicle Industry Act 2017* states that the objective of the ESC in relation to the non-cash payment transaction industry is to **promote efficiency** by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, the ESC must ensure that persons facilitating the making of non-cash payment transactions are able to recover the **reasonable cost** of accepting and processing such transactions.

The *Essential Services Commission Act 2001* states that in performing its functions and exercising its powers, the objective of the commission is to **promote the long term interests of Victorian consumers**. In performing its functions and exercising its powers in relation to essential services, the commission must in seeking to achieve this objective, have regard to the price, quality and reliability of essential services. Without derogating from this obligation and the matters which the commission must have regard to in seeking to achieve this objective, the commission must also when performing its functions and exercising its powers in relation to a regulated industry do so in a manner that the commission considers best achieves any objectives specified in the empowering instrument, in this case being the *Commercial Passenger Vehicle Industry Act 2017*.

The *Essential Services Commission Act 2001* also sets out a list of matters the Commission must have regard to in seeking to achieve its objective of promoting the long term interests of Victorian consumers (to the extent that they are relevant in any particular case), and in making a price determination, including (among other factors):

- Efficiency in the industry and incentives for long term investment
- The financial viability of the industry
- The degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries.

In making a price determination, the commission must adopt an approach and methodology which the commission considers will best meet the objectives specified in the *Essential Services Commission Act 2001* and any relevant legislation. In addition, the commission must ensure that the expected costs of the proposed regulation do not exceed the expected benefits, and the determination takes into account and clearly articulates any trade-offs between costs and service standards.

We consider that our final decision meets these legislative requirements. We have set the maximum surcharges having regard to the reasonable cost of processing non-cash payments,³⁰ which could differ from a particular firm's actual costs. While our bottom up analysis shows a cost range of 3.5 to 3.9 per cent for non-Cabcharge payment instruments and six per cent for Cabcharge payment instruments, it also tends to indicate that cost reductions are possible. Further, our maximum surcharges are above the estimates from our benchmarking.³¹ On this basis

³⁰ We have defined reasonable cost to be moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability. The reasonable cost can differ from any individual firm's actual costs. A firm incurring a cost does not, in itself, make a cost reasonable. Reasonable costs are likely to be higher than the efficient costs.

³¹ The benchmarks that we used are not specific to the taxi industry. Rather, we looked at charges from payment processors to small businesses for processing non-cash payments. We considered small businesses because they have similar revenue to taxis. Adjustments were applied to reflect the particular circumstances of the taxi payments industry and taxi non-cash payment transactions.

we consider that our maximum surcharges will ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions. As a result, the maximum surcharges will not jeopardise the financial viability of the taxi payments industry.

Setting the maximum surcharges at these levels will also encourage efficiency by providing incentives to reduce costs to the extent actual costs incurred by payment processors are above the maximum surcharges.

Having two maximum surcharges, one for Cabcharge payment instruments and one for all other payment instruments, will provide price signals reflecting relative cost of different services. This will facilitate a level of customer choice of payments and competition between payment methods.

Two surcharges should not be confusing, but having more could be

[REDACTED]

[REDACTED] CabFare queried having two (but not more) maximum surcharges and, considered that customers would understand higher charges for premium cards such as American Express.³³

As set out in the price structures chapter, in general, we would prefer having a single maximum surcharge to avoid creating customer confusion and potential for mis-charging. However, we do not expect that a separate maximum surcharge for Cabcharge payment instruments would create confusion among consumers.

If we were to have a separate maximum surcharge for all payment methods there may be confusion. Individuals can use a wide range of cards and we consider that it is simpler and will lead to fewer disputes if there is only one maximum surcharge for all of these cards. However, individuals tend not to hold Cabcharge accounts. Cabcharge payment instruments are generally used by employees of corporations and government agencies which have corporate accounts with A2B Australia. There are unlikely to be disputes about the surcharge at the time of payment because it would be company policy to use a specific payment type. Payment instruments such as those offered by Cabcharge are understood to be a distinct service offering from other types of

³² [REDACTED]

³³ CabFare, RE: Draft determination on Taxi Non-Cash Surcharges Dated 11 November 2019, 31 January 2020.

non-cash payment methods and in that regard the commission considers the different surcharge is unlikely to give rise to confusion.

CabFare queried if a higher surcharge could apply to all business and government users, regardless of the card that they use. However, even putting to one side the difficulty that would be associated with determining the characteristics of a particular user, it is the different cost structure for Cabcharge payment instruments that gives rise to the different surcharge, not the different characteristics of the passenger.

Appendix A: the non-cash payments supply chain

This section explains how non-cash payment systems work in general and how they are similar or different in the taxi payments industry.

Non-cash payment systems

Non-cash payment systems allow consumers to pay, and businesses to accept payment, for goods and services without using cash. There are two main elements of non-cash payment systems:

- the payment instruments consumers use: cheques, credit, debit and charge cards
- the payment arrangements or card schemes in place which would ensure funds move to and from the accounts of relevant financial institutions.

The Reserve Bank of Australia reports that between 2007 and 2016 the proportion of non-cash payments of all transactions in Australia increased from 31 per cent to 63 per cent.³⁴

Payment instruments

There are many different types of non-cash payment methods. These include cheque, cards and vouchers. The most commonly used form of non-cash payment in Australia is cards. In 2016 credit and debit card payments made up 83 per cent of all non-cash payments.³⁵ Some of the most commonly used cards are Visa, MasterCard, and eftpos.

When a credit or charge card is used, cardholders pay for goods and services using credit from the financial institution that issued the credit or charge card. They may be used by the cardholder at the point of sale (card present) or via phone or the internet (card not present).

When debit cards are used to purchase goods or services, cardholders use money they have deposited in an account. There are two types of debit cards in Australia: the eftpos system and scheme debit cards. Eftpos cards are issued by Australian banks and are mainly used domestically. Eftpos card transactions may only occur in person at the point of sale (card present). Scheme debit cards are offered by Visa and MasterCard. Scheme debit cards can be used inside and outside Australia for either card present or not present transactions.

³⁴ RBA (2017), How Australians Pay: Evidence from the 2016 Consumer Payments Survey, Research Discussion Paper 2017-04, July, p.2.

³⁵ RBA (2017), How Australians Pay: Evidence from the 2016 Consumer Payments Survey, Research Discussion Paper 2017-04, July, p.2.

Payment arrangements or card schemes

A payment arrangement or a card scheme is a payment network which consumers and businesses can access to make or accept payment. The network is accessed most commonly by payment cards.

The two most common types of card schemes are four-party and three-party schemes which are discussed in detail below.

Key players

There are five main groups of participants in the non-cash payment system.³⁶ They are:

- **cardholders** – the person or customer who has been issued the card
- **cardholder banks (also called issuing bank or issuer)** – the bank that issues the card to the cardholder. It provides credit in the case of credit cards or access to the cardholder's funds in the case of debit cards
- **merchants** – the person or business accepting a card as payment for goods or services
- **merchant banks (also called acquiring bank or acquirer)** – the institution that provides payment to merchants who have accepted a card as payment. It is responsible for requesting authorisation of a transaction from the cardholder's bank. It also supplies the payment terminals to merchants
- **payment schemes** – these schemes provide a range of services including transaction processing and international networking.

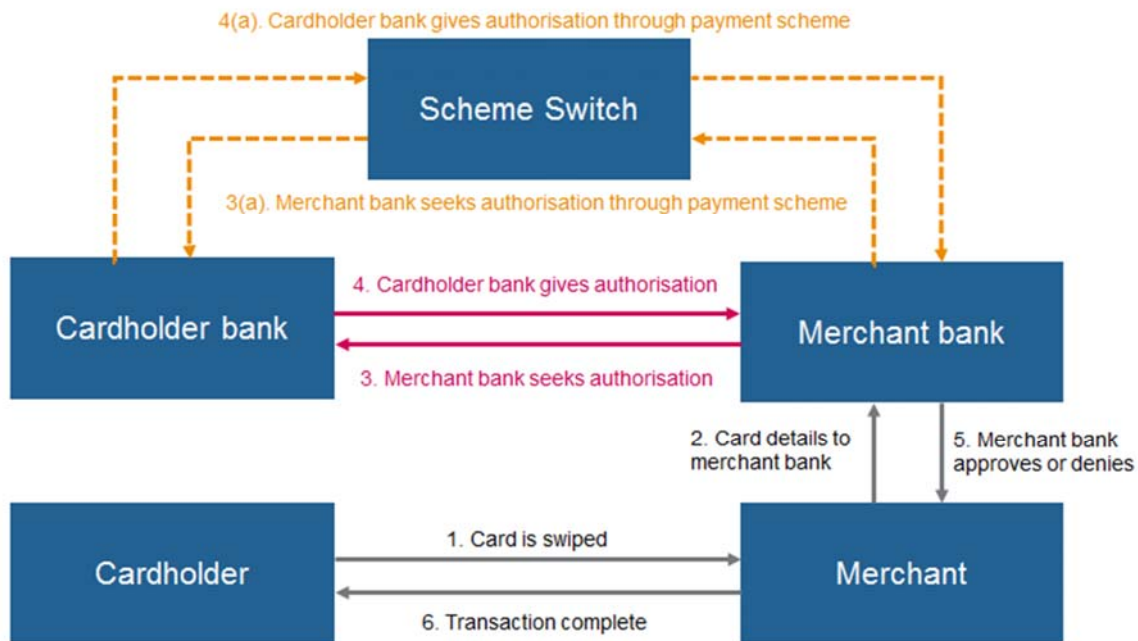
How credit, debit and charge card transactions work

Flow of information and relevant charges: four-party scheme

The parties involved in a four-party scheme are the cardholder, the cardholder's bank, the merchant, the merchant's bank and in some cases the payment scheme. Figure A.1 below describes the flow of information in a typical four-party scheme transaction.

³⁶ RBA (2005), Review of RBA and Payment Systems Board Annual Reports 2005 (First Report), June, p.25.

Figure A.1: Information flow for four-party scheme transactions



Notes:

1. Card is swiped through the payment terminal.
2. Transaction and cardholder details are sent to the merchant's bank.
3. If the merchant's bank is also the cardholder's bank the transaction can be authorised internally and the authorisation returned to the merchant. If the cardholder's bank is a different financial institution, the merchant's bank sends the transaction to the cardholder's bank (3) or through the payment scheme such as Visa or MasterCard (3a).
4. The cardholder's bank authorises or declines the transaction and sends the relevant message to the merchant's bank (4) or via the payment scheme (4a).
5. The merchant's bank tells the merchant if the payment is authorised.
6. If the transaction is authorised, the transaction is complete.

Source: RBA (2005), Review of RBA and Payment Systems Board Annual Reports 2005 (First Report), June, p.26.

Fees paid in a four-party scheme transaction generally include an interchange fee, a merchant service fee and a surcharge.

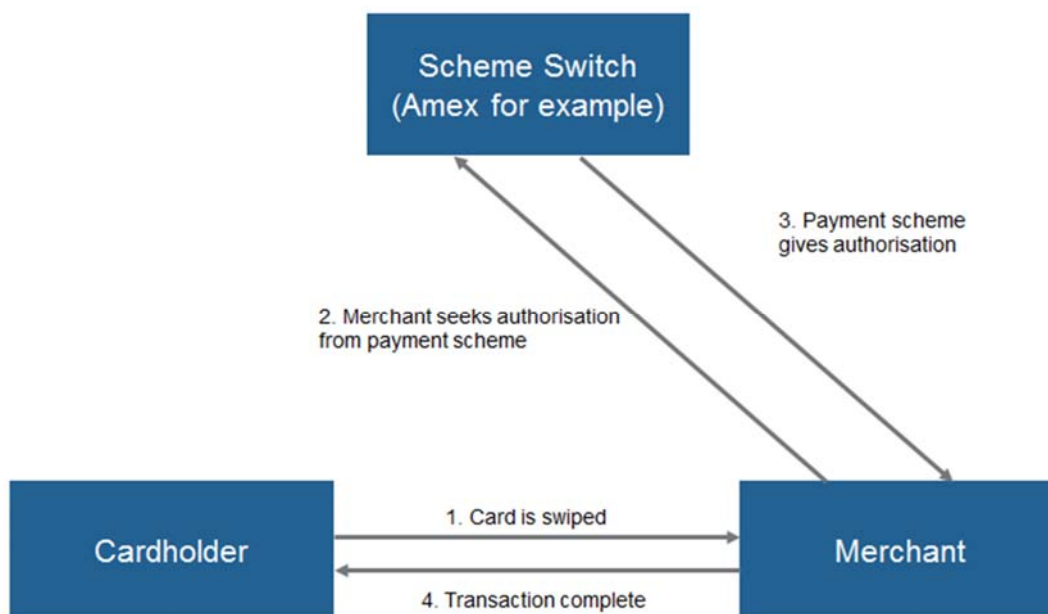
- An **interchange fee** is paid by the merchant's bank to the cardholder's bank every time a payment is made with a credit, debit and charge card. However, for eftpos transactions it is the cardholder's bank which pays the merchant's bank an interchange fee. The level of interchange fee is agreed between the cardholder's bank and the card schemes (Visa, MasterCard, eftpos) but is capped by the RBA.
- The **merchant service fee** is charged by the merchant's bank to recover the costs of providing services to merchants. The merchant service fees are not capped by the RBA.

- The **surcharge** is the charge a merchant collects from a cardholder/customer to recover the costs of accepting a non-cash payment. In most industries, under the RBA's standards, a surcharge must not exceed the merchant's costs of accepting a card, being the average cost per card transaction.

Flow of information and relevant charges: three-party scheme

In a three-party scheme, the issuer and the acquirer are the same entity, hence the name three-party. The key players are the issuer/acquirer, the cardholder and the merchant. Examples of three-party schemes are American Express and Diners Club. For example, American Express issues the card to cardholders and authorises merchants to accept or decline cardholders' American Express cards. Three-party transactions account for only about seven per cent of the number of all card transactions.³⁷ Figure A.2 shows a typical three-party scheme transaction.

Figure A.2: Information flow for three-party scheme transactions



Notes:

1. Card is swiped by cardholder.
2. Merchant sends card details to scheme switch (American Express for example).
3. Scheme authorises or declines the transactions and sends the relevant message to the merchant.
4. If the transaction is authorised, the transaction is complete.

³⁷ RBA, Payments Data, C: 2 Market Shares of Credit and Charge Card Schemes, available at: <https://www.rba.gov.au/payments-and-infrastructure/resources/payments-data.html> [last accessed 6 February 2020].

Because the issuing and acquiring entities are the same, there is no interchange fee in a three-party scheme transaction. However, the issuing/acquiring entity charges the merchant a merchant service fee. Merchant service fees under three-party schemes are generally higher than merchant service fees under four-party schemes.³⁸ Three-party schemes are not subject to the RBA's standard on surcharging. But American Express and Diners Club each have a voluntary undertaking consistent with the RBA's surcharging standard.³⁹

Non-cash payments in the taxi payments industry

Payment instrument cards

In the taxi payments industry, credit, debit, and charge cards are all accepted forms of non-cash payments. Unlike in other parts of the economy, charge cards have a significant market share of non-cash payments in the Victorian taxi payments industry. This is due to the widespread use of Cabcharge payment instruments (Cabcharge).

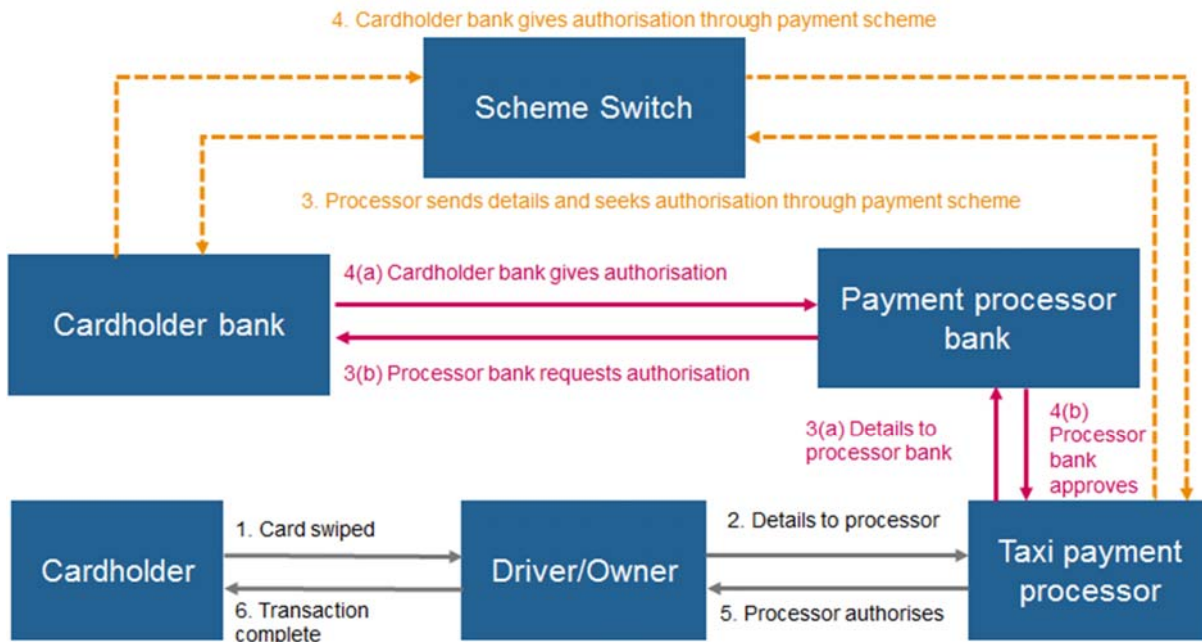
Four-party schemes

The flow of information described for a four-party scheme in figure A.1 also applies to the taxi payments industry but with one variation (figure A.3). An additional key player has been added: the taxi payment processor. Taxi payment processors aggregate taxi operators' non-cash transactions and act as the merchant interfacing with the acquiring bank. Instead of banks, the taxi payment processor supplies payment terminals to drivers, booking service providers or taxi operators as part of its payment services.

³⁸ RBA (2016), Review of Card Payments Regulation Conclusions Paper, May, p.8.

³⁹ RBA (2016), Review of Card Payments Regulation Conclusions Paper, May, p.39.

Figure A.3: Four party scheme transactions in the taxi payments industry



Unlike other industries, the maximum surcharge that may be charged for non-cash payments in taxis is not regulated by the RBA. It is regulated by state regulators. Currently in Victoria, a maximum surcharge of five per cent may be collected from cardholders.

Cabcharge

Cabcharge is a three-party scheme similar to that shown in figure A.2 above. As an issuer, A2B Australia has a relationship with Cabcharge account holders. It issues Cabcharge cards to account holders and charges them a five per cent service fee on all payments on the card.

There is no interchange fee in the Cabcharge scheme because Cabcharge is both the issuer and acquirer.

Taxi payment processors

Taxi payment processors are a sub-group of **merchant aggregators**. Merchant aggregators process transactions for multiple merchants ('sub-merchants') through a single merchant account. This means merchants can accept non-cash payments without an individual merchant account. Merchant aggregators facilitate payments between merchants and consumers.

Some stakeholders have told us that taxi payment processors provide a unique service and this is why the surcharge is higher for taxis than in other industries. However, we note that there are several merchant aggregators operating in other industries that provide similar services to taxi

payment processors at lower cost. For example, Square charges only 1.9 per cent per transaction for card-present transactions and 2.2 per cent for card-not-present transactions.

Benefits of non-cash payments in taxis

Some stakeholders stated that encouraging use of non-cash payments delivers benefits including:

- increasing driver safety⁴⁰
- reducing insurance and security costs by limiting potential theft and loss⁴¹
- reducing administrative burden of cash payments for drivers and operators.⁴²

Competition in Victoria for providing payment services

Historically, there has been a high degree of market concentration in taxi payment processing, with A2B Australia holding strong positions in both taxi-specific payment instruments and payment processing.⁴³ There are now a number of players providing payment services in the Victorian taxi non-cash payment transaction industry such as Live taxi, CabFare, GM Cabs, and Ingogo. A2B Australia continues to be the largest provider of **taxi** non-cash payment transaction services.

A2B Australia's competitors provide mobile payment terminals to taxi drivers. To steer payments to their payment devices, taxi payment processors may provide drivers different forms of incentives to encourage use of their payment terminals. Some taxi payment processors offer drivers incentives such as commissions⁴⁴, redeemable vouchers or gasoline discounts.⁴⁵ Another key benefit for many taxi drivers of using Live taxi, CabFare, GM Cabs or Ingogo is cashflow control. If a driver uses the payment terminal provided by their booking service provider, their booking service provider or operator can automatically deduct money owed from the driver's non-cash payment takings. If the driver uses their own terminal they can decide when to pay their booking service provider or operator.

While there are a number of taxi payment processors competing to process payment methods in general use throughout the economy, A2B Australia's competitors cannot accept Cabcharge or process multi-purpose taxi program (MPTP) subsidies. Cabcharge is a major form of payment for

⁴⁰ Mastercard, submission received 14 February 2019.

⁴¹ Mastercard, submission received 14 February 2019.

⁴² CabFare, submission received 1 February 2019; Mastercard, submission received 14 February 2019.

⁴³ Taxi Industry Inquiry, Customers First: Service, Safety, Choice, Final Report, September 2012, p. 208.

⁴⁴ <https://www.ingogo.com.au/driver> (accessed on 25 October 2018).

⁴⁵ <http://www.gmcabs.com.au/eftpos-solution/> (accessed on 25 October 2018).

business and government travellers and, under state government regulation, taxis are required to have a terminal that can process MPTP subsidies.⁴⁶

Although, historically these factors may have provided A2B Australia a significant advantage over other processors, stakeholders have told us that another third-party taxi payment processor has been processing Cabcharge on some of their terminals. Also, Oiii, a recently entered taxi booking service provider, has introduced a new technology to process MPTP cards without an A2B Australia terminal.⁴⁷ This technology is only in use on Oiii's dispatch systems.

Taxi non-cash payment surcharging in other jurisdictions

This section looks at regulation of non-cash payments in taxis in other jurisdictions. Our research suggests that the prevalence of non-cash payments is higher in jurisdictions where acceptance of non-cash payments is mandatory and non-cash payment surcharging is not allowed. This approach to regulation may encourage use of non-cash payments.

The fees charged in other jurisdictions

Table A.1 shows the non-cash payment surcharges for taxis that apply in Australia and other jurisdictions.

Table A.1 Non-cash payment surcharges in Australia and other jurisdictions

Jurisdiction	0%	≈2%	≈5%	≈7%	≈10%
Australian Capital Territory			X		
New South Wales			X		
Queensland			X		
Northern Territory			X		
South Australia			X		
Tasmania					X
Western Australia			X		
New Zealand				X	

⁴⁶ Commercial passenger vehicle registration conditions, condition 5(1), available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions#> (last accessed 23 November 2018).

⁴⁷ <https://vxier.pr.co/169788-oiii-breaks-mptp-industry-monopoly-with-the-release-of-new-victorian-government-approved-technology> (accessed 23 November 2018).

Singapore			X
United Kingdom	X		
European Union	X		
Boston	X		
Chicago		X	
Las Vegas			X
New York	X		
San Francisco	X		
Quebec	X		

Sources: Australian Capital Territory,⁴⁸ New South Wales,⁴⁹ Queensland,⁵⁰ Northern Territory,⁵¹ South Australia,⁵² Tasmania,⁵³ Western Australia,⁵⁴ New Zealand,⁵⁵ Singapore,⁵⁶ United Kingdom,⁵⁷ European Union,⁵⁸ Boston,⁵⁹ Chicago,⁶⁰ Las Vegas,⁶¹ New York,⁶² San Francisco,⁶³ Quebec⁶⁴

⁴⁸ <https://www.accessc Canberra.act.gov.au/ci/fattach/get/95685/1470004531/redirect/1/filename/Taxi+drivers+-+Standard+taxis.pdf> .

⁴⁹ <https://www.transport.nsw.gov.au/projects/programs/point-to-point-transport/taxi-information>

⁵⁰ <https://www.qld.gov.au/transport/public/operators/information-for-passengers/passenger-rights-and-fares/taxi-service-standards>.

⁵¹ <https://transport.nt.gov.au/transport/transport-strategies-and-plans/commercial-passenger-vehicle-reforms/electronic-payment-surcharges>.

⁵² <https://www.sa.gov.au/topics/driving-and-transport/transport-industry-services/taxi-and-passenger-transport/taxis> .

⁵³ https://www.transport.tas.gov.au/passenger/passengers/taxi_hire_vehicle_and_ride_sourcing/taxi_fares.

⁵⁴ https://www.transport.wa.gov.au/mediaFiles/taxis/Taxis_P_Electronic_payment_surcharge_reduction.pdf.

⁵⁵ This assumes that the average fare in New Zealand is the same as that in Melbourne; https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10797806

⁵⁶ https://premiertaxi.com.sg/commuters/taxi_fare.

⁵⁷ <https://tfl.gov.uk/modes/taxis-and-minicabs/taxi-fares?intcmp=4223>

⁵⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L2366&from=EN>

⁵⁹ <https://static1.squarespace.com/static/5086f19ce4b0ad16ff15598d/t/52af61e1e4b0871946c07a41/1387225569980/Rule+403.pdf>

⁶⁰ <https://www.chicago.gov/content/dam/city/depts/bacp/rulesandregs/AldBealestransactionfeeordinance32216.pdf>

⁶¹ http://taxi.nv.gov/uploadedFiles/taxinvgov/content/Rider_Info/DidYouKnow.pdf

⁶² http://www.nyc.gov/html/tlc/html/passenger/taxicab_rate.shtml

⁶³ <http://archives.sfmta.com/cms/cmta/documents/6-5-12item11creditcardfees.pdf>

⁶⁴ <https://www.opc.gouv.qc.ca/en/consumer/topic/price-discount/advertised-price/debit-card/>

Mandatory acceptance of non-cash payments (and its impact)

There are a number of jurisdictions where acceptance of non-cash payments is mandatory. These include:

- London⁶⁵
- Barcelona⁶⁶
- France⁶⁷
- Germany⁶⁸
- Madrid⁶⁹
- Boston⁷⁰
- Chicago⁷¹
- New York⁷²
- San Francisco⁷³
- Saskatoon⁷⁴
- Quebec⁷⁵
- Seoul⁷⁶.

⁶⁵ <https://tfl.gov.uk/info-for/taxis-and-private-hire/accepting-card-payments> (last accessed 6 February 2020).

⁶⁶ <http://taxi.amb.cat/s/en/usuari/formes-de-pagament.html> (last accessed 6 February 2020).

⁶⁷ <https://www.service-public.fr/professionnels-entreprises/vosdroits/F22127> (last accessed 6 February 2020).

⁶⁸ <https://ec.europa.eu/transport/sites/transport/files/2016-09-26-pax-transport-taxi-hirecar-w-driver-ridesharing-country-reports.pdf> (last accessed 6 February 2020).

⁶⁹ <https://www.madrid.es/portales/munimadrid/es/Inicio/Movilidad-y-transportes/Taxi/?vgnextfmt=default&vgnextoid=4813dc0bffa41110VgnVCM1000000b205a0aRCRD&vgnnextchannel=220e31d3b28fe410VgnVCM1000000b205a0aRCRD&idCapitulo=10558389> (last accessed 6 February 2020).

⁷⁰ https://www.cityofboston.gov/news/uploads/6033_4_24_27.pdf (last accessed 6 February 2020).

⁷¹ <https://www.chicago.gov/content/dam/city/depts/bacp/publicvehicleinfo/medallionowners/approvedcreditcardprocessingequipmenttaxi03142014.pdf> (last accessed 6 February 2020).

⁷² <https://www1.nyc.gov/site/tlc/passengers/passenger-frequently-asked-questions.page> (last accessed 6 February 2020).

⁷³ https://web.archive.org/web/20180324113638/https://taxi.vic.gov.au/_data/assets/pdf_file/0014/20831/TaxiCabRegHar-a-PDF.pdf (last accessed 6 February 2020).

⁷⁴ <https://www.saskatoon.ca/sites/default/files/documents/9070.pdf> (last accessed 6 February 2020).

⁷⁵ https://www.ctq.gouv.qc.ca/fileadmin/documents/secteurs/taxi/Tarification_des_services_de_transport_par_taxi_-_Aide_memoire.pdf (last accessed 6 February 2020).

⁷⁶ <https://www.legco.gov.hk/research-publications/english/1415in13-taxi-service-in-selected-places-20150612-e.pdf> (last accessed 6 February 2020).

These policies have been introduced on the basis of research that showed the majority of passengers would like to be able to pay by card⁷⁷ and also to increase driver safety.⁷⁸ However research has also shown that there is often driver resistance to accepting non-cash payments as drivers may be charged a fee for processing debit or credit card payments.⁷⁹ To help deal with this issue, in some cases regulators have taken action to help taxis recover the associated costs.

For example, when Transport for London introduced mandatory acceptance of non-cash payments and banned non-cash payment surcharging in taxis, it took steps to address cost pressures associated with processing card payments.

Transport for London:

- negotiated with the credit card industry to reduce credit card transaction fees paid by drivers from up to 10 per cent to three per cent⁸⁰
- increased the flagfall by 20 pence (about 1 per cent increase in average fare)⁸¹ to assist drivers to cover the costs associated with processing card payments that they could no longer pass on to passengers⁸² and
- mandated that all taxis must be fitted with an approved card payment device fixed within the passenger compartment, and taxi drivers must accept credit and debit card payments.⁸³

In New York, the Taxi and Limousine Commission (TLC) introduced mandatory acceptance of non-cash payments in 2008. Prior to this, the TLC increased taxi fares by 26 per cent. This increase was tied to a series of technology-based customer improvements (including mandatory acceptance of non-cash payments) that would be implemented over the following years.⁸⁴ In New York, a driver may be charged \$7 per shift or \$49 per week for credit card processing. The TLC reviews the

⁷⁷ https://consultations.tfl.gov.uk/taxis/card-payment/user_uploads/paying-by-cards-in-taxis-report.pdf (last accessed 17 April 2019).

⁷⁸ http://home2.nyc.gov/html/tlc/html/industry/taxicab_serv_enh_archive.shtml

⁷⁹ https://www.sfmta.com/sites/default/files/Meter%20Rates%20and%20Gate%20Fees_Final.pdf (last accessed 17 April 2019).

⁸⁰ <https://tfl.gov.uk/info-for/media/press-releases/2015/november/mayor-and-tfl-confirm-card-and-contactless-payments-will-be-accepted-by-london-taxis> (last accessed 17 April 2019).

⁸¹ This is based on the average fare in London in 2014; <https://consultations.tfl.gov.uk/tph/taxi-fare-and-tariff-review-2016/results/taxi-fares-and-tariff-review-2016-report.pdf> (last accessed 17 April 2019).

⁸² <http://content.tfl.gov.uk/09-16-changes-to-taxi-fares-and-accepting-payment-by-card-in-all-london-taxis.pdf> (last accessed 17 April 2019).

⁸³ <http://content.tfl.gov.uk/09-16-changes-to-taxi-fares-and-accepting-payment-by-card-in-all-london-taxis.pdf> (accessed 2 August 2019)

⁸⁴ http://home2.nyc.gov/html/tlc/downloads/pdf/annual_report_2008.pdf

average credit card usage per shift every six months and adjusts the surcharge so that it is equivalent to five per cent of this.⁸⁵

Similarly, in many other US states drivers may have to cover the costs associated with processing non-cash payments. For example, in Boston drivers may have to pay a fee of up to six per cent for processing non-cash payments.⁸⁶ In San Francisco drivers may have to pay up to 3.5 per cent.⁸⁷

Prevalence of non-cash payments for taxis in other jurisdictions

Our research suggests that taxi regulators have typically adopted two different approaches to regulation of non-cash payments in taxis:

1. acceptance of non-cash payments is mandatory and non-cash payment surcharging is not allowed
2. acceptance of non-cash payments is optional and non-cash payment surcharging is allowed.

The prevalence of non-cash payments appears to be higher where acceptance of non-cash payments is mandatory and non-cash payment surcharging is not allowed, which suggests that this approach to regulation may encourage use of non-cash payments. For example, in New York where acceptance of non-cash payments is mandatory and non-cash payment surcharging is not allowed, 67 per cent of taxi fares were paid by credit card from 2016 to 2018.⁸⁸ In contrast, in Las Vegas, where acceptance of non-cash payments is optional and non-cash payment surcharging is allowed, 25 per cent of taxi fares were paid by credit card in 2015.⁸⁹

⁸⁵[http://library.amlegal.com/nxt/gateway.dll/New%20York/rules/therulesofthecityofnewyork?f=templates\\$fn=default.htm\\$3_0\\$vid=amlegal:newyork_ny](http://library.amlegal.com/nxt/gateway.dll/New%20York/rules/therulesofthecityofnewyork?f=templates$fn=default.htm$3_0$vid=amlegal:newyork_ny) (last accessed 6 February 2020).

⁸⁶<https://static1.squarespace.com/static/5086f19ce4b0ad16ff15598d/t/52af61e1e4b0871946c07a41/1387225569980/Rule+403.pdf> (last accessed 6 February 2020).

⁸⁷<http://archives.sfmta.com/cms/cmta/documents/6-5-12item11creditcardfees.pdf> (last accessed 6 February 2020).

⁸⁸https://www1.nyc.gov/assets/tlc/downloads/pdf/2018_tlc_factbook.pdf (last accessed 6 February 2020).

⁸⁹<https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/9916> (last accessed 6 February 2020).

Appendix B: our bottom-up cost assessment

We used bottom-up cost assessment as one approach to inform this final decision on the maximum surcharge.

In this appendix, we discuss what our bottom-up cost assessment suggests about the current maximum surcharge, the methodology we used, and the costs we included and excluded.

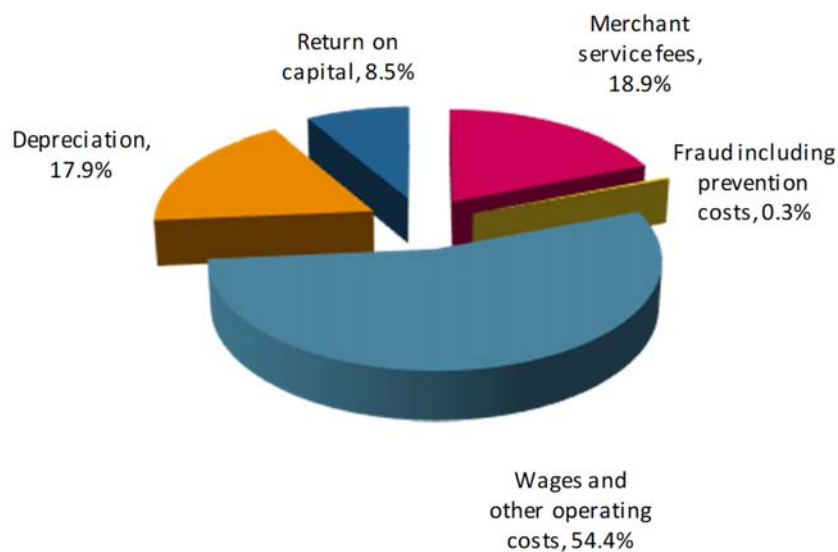
For most firms we conducted a single bottom-up cost assessment that covered the cost of all of the payment methods they process. However, we conducted two bottom-up cost assessments for A2B Australia:

- an assessment of all payment methods except Cabcharge payment instruments and
- an assessment of Cabcharge payment instruments.

Bottom-up cost assessment shows the current maximum surcharge is too high

Our updated bottom-up cost assessment suggests that the current maximum surcharge is higher than it needs to be in order to promote efficiency in the taxi payments industry and to ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of processing such transactions. We assessed taxi payment processors' actual costs, excluding unreasonable costs where possible, to see what surcharge would be necessary for them to recover their reasonable costs of processing non-cash payments. Figure B.1 shows the average makeup of taxi payment processors' costs.

Figure B.1: Breakdown of costs associated with taxi non-cash payment processing



In carrying out our bottom-up cost assessments of taxi payment processors' actual costs, we made some adjustments to exclude cost items related to non-regulated services (i.e. costs not associated with non-cash payments). The costs included and excluded are discussed in detail in the last section of this appendix. All surcharges presented in this chapter are inclusive of GST.

Our assessment of taxi payment processors actual costs shows that the reasonable cost of processing non-cash payments ranges from 3.5 to 3.9 per cent.

As noted in chapter two, we have not always been able to obtain the information that we would like. How regulated businesses keep their information may not align with the information required by a regulator for the purpose of setting regulated charges.

Following the release of our consultation paper, we sent information requests to a number of taxi payment processors to better understand the costs of processing non-cash payments in taxis.⁹⁰ Compliance with this request was voluntary, and taxi payment processors did not provide us with all of the information that we requested.

Following this, we issued notices to provide information and documents under our compulsory information gathering powers to collect actual cost data from all taxi payment processors we are aware of. While the information we received is more detailed and complete than that we received previously through our voluntary request, we tailored our information notices so as not to impose an unreasonable burden on recipients and to reduce the cost of compliance.

To do this the we requested information:

- on cost categories taxi payment processors had provided information on before
- taxi payment processors were likely to possess already and
- taxi payment processors would be able to produce and without unreasonable cost.

Asking for the exact cost categories we would need to exclude all costs that were either unrelated to processing non-cash payments or unreasonable would have placed an excessive cost burden on the taxi payments industry relative to the potential public benefit of the additional data.

As a result of this we have still not been able to isolate every cost related to non-regulated services. The level of detail in taxi payment processors' records does not allow us to do so with precision. Where we have been unable to precisely identify these costs, rather than risk removing

⁹⁰ Essential Services Commission, Information request: Taxi non-cash payment surcharge review 2019, December 2018. Source: <https://www.esc.vic.gov.au/transport/commercial-passenger-vehicles/commercial-passenger-vehicle-prices/taxi-non-cash-payment-surcharge-review-2019#tabs-container2> (accessed on 14 March 2019).

reasonable costs, we have left them in our bottom-up cost assessments of actual costs. A notable example of this is the taxi meters that are part of A2B Australia's payment terminals; the costs of which should be allocated to the provision of taxi services.

In response to our notices to provide information two taxi payment processors submitted information that suggested that their actual costs were above five per cent [REDACTED]. This information is contrary to other information provided by these two firms.

[REDACTED]

As a result we consider the cost information provided by these firms may not represent an accurate portrayal of the cost of providing their taxi payment services. Nonetheless it is possible that these two firms have costs higher than four per cent of the transactions that they process. If this is so, their costs are not reasonable as they appear very high relative to the costs incurred by other taxi payment processors in some categories of expenditure. [REDACTED]

[REDACTED]

Therefore we do not consider the costs submitted by these payment processors represent reasonable costs.

We used a building block model to assess taxi payment processors' costs

This section provides some information on the composition of the building blocks used in our bottom-up cost assessment. For a brief explanation of the building block method please see chapter two.

⁹¹ [REDACTED]

⁹² [REDACTED]

Operating expenditure

Operating expenditure averaged around 70 and 98 per cent of taxi payment processors' total regulatory costs.

Merchant service fees

Merchant service fees are transaction based fees charged to a merchant by an acquirer. Merchant service fees will depend on the type of card used.

Merchant service fees are one of the key costs faced by taxi payment processors. They account for between 13 to 43 per cent of operating expenditure.

Wages

Wages or employee costs are another key cost item for taxi payment processors. They account for about 10 to 40 per cent of total operating expenditure. Wages include direct and indirect labour costs associated with processing non-cash payments.

Payment terminal maintenance and rental

Payment terminal maintenance and rental involves the ongoing costs of renting and maintaining payment terminals.

Payment processors can rent or purchase payment terminals. If payment processors rent them, they are treated as operating expenditure, but if they purchase them then they recover their costs as capital expenditure through the asset base.

Payment processors either maintain their payment terminals themselves or sub-contract to external service providers. Regardless of who undertakes the maintenance of payment terminals, we consider maintenance costs to be a cost of processing non-cash payments.

Taxi payment processors presented these costs differently, but for taxi payment processors that clearly separated these costs from their other costs they accounted for around eight to 14 per cent of operating expenditure.

Fraud

Payment processors' fraud related costs include the costs associated with preventing fraud and chargebacks. Fraud costs account for on average about one per cent of processor's operating costs.

There are different types of fraud associated with using cards but taxi payment processors suggest that chargebacks are the most common in taxis.⁹³ A chargeback happens when a passenger contests or denies the fare or the trip.⁹⁴ If the passenger's claim is proven after an investigation, the fare will be reversed and the passenger will get a refund. Chargebacks have two components: the disputed amount and the chargeback fee.

Taxi payment processors also install specialised fraud detection systems, develop software, and provide training to help protect drivers and passengers from fraud.

Other operating expenses

Taxi payment processors have identified other operating costs necessary for processing non-cash payments in taxis. These include, among other things, administration expenses, office and warehouse rental and marketing and advertising expenses.

Return of capital (depreciation)

We have included an allowance for taxi payment processors to recover the purchase price of their non-cash payment assets. Depreciation costs for taxi payment processors averaged around 13 per cent of their total regulatory costs.

The level of depreciation costs is influenced by the assumed economic lives of the assets and the depreciation method used. From the taxi payment processors submissions, there are two main groups of assets:

1. **payment equipment:** which includes payment terminals and associated assets and
2. **infrastructure assets:** which are used to receive information from payment terminals.

The economic life for these assets ranged from one to five years.

Taxi payment processors generally used straight line depreciation. We have noted our preference for this method in other industries.⁹⁵

⁹³ Common causes for chargebacks: no authorisation for fares over the limit; wrong pickup or drop off details on the receipt; the passenger (cardholder) questions the fare and no record was kept by the operator, driver; the cardholder did not authorise the transaction; wrong date and time listed on the cardholder's statement for the trip. Source: Cabcharge, Fraud protection training (<https://web.archive.org/web/20190312060153/http://merchants.cabcharge.com.au/wp-content/uploads/2015/06/Fraud-presentation-May-2015.pdf>).

⁹⁴ Cabcharge, Fraud protection training. (Source: <https://web.archive.org/web/20190312060153/http://merchants.cabcharge.com.au/wp-content/uploads/2015/06/Fraud-presentation-May-2015.pdf>)

⁹⁵ Essential Services Commission, *2018 Water price review: Guidance paper*, p.42.

Return on capital

The return on capital on average accounted for four per cent of taxi payment processors' building block costs. This is low compared to most other regulated industries as taxi payments processing is less capital intensive than other regulated industries (for example water or electricity networks).

Using available information for A2B Australia and information provided by A2B Australia's advisers, PwC, we have applied a standard weighted-average cost of capital framework to derive an estimate of 9.7 per cent (pre-tax, nominal) at the current time. This estimate is derived from:

- A risk free rate of 1.9 per cent, based on 10-year Commonwealth Government securities
- A market risk premium of 6.5 per cent
- An equity beta of between 0.7 and 0.95, depending on whether it is calculated on a weekly or monthly basis, over 5 or 10 years
- A level of gearing (debt as a proportion of debt plus equity) of between 0 and 15 per cent
- A tax rate of 30 per cent
- A debt risk premium of 2.14 per cent, based on BBB rated bonds.

Combining these inputs produces a pre-tax WACC of between 9.0 and 10.4 per cent, and we have adopted the midpoint of these estimates of 9.7 per cent in calculating the return on capital building block for our bottom-up cost assessment of taxi payment processors.

A2B Australia's consultant Charles River Associates (CRA) submitted that 'the use of observed betas for a single firm for the purpose of estimating that firm's WACC has been specifically rejected by other regulators.⁹⁶ It favoured PwC's approach of using a selection of comparator companies.

CRA suggests that our approach of estimating A2B Australia's beta directly from market information is not a common regulatory approach. Regulators ordinarily estimate beta from a range of comparable entities. We agree that this latter method is the more conventional approach. It is normally adopted for two reasons.

The first is that regulators are often directed to use, or otherwise prefer, estimating the cost of capital for a "benchmark" firm. The approach of separating a notional benchmark efficient return from the actual costs incurred is a form of incentive regulation; using a benchmark provides incentives for regulated entities to secure lower-cost financing. We note that under the CPVI Act, our objective in relation to the non-cash payments industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, we must ensure that taxi payment processors can recover the reasonable cost of processing non-cash payments. Using estimate benchmark efficient costs does not in our view best achieve this objective.

⁹⁶ CRA, Assessment of A2B's reasonable costs of processing non-cash payments, pp. 29-31, 12 August 2019.

The second reason that regulators estimate beta based on a range of comparable or benchmark companies is that beta estimates for individual firms tend to be statistically “noisy” and can vary significantly over different time periods (one, five or ten years) or estimation windows (daily, weekly or monthly data). Averaging estimated betas across a range of comparator firms will give more stable beta results than from a single firm. However, this benefit comes at a cost, as comparator companies may share few risk characteristics with the regulated firm. [REDACTED]

[REDACTED]

In this case, we consider that it is more appropriate to consider the actual historic returns and estimated beta for A2B Australia. We consider that this approach and methodology best meets our legislative objectives. To minimise problems with statistical precision, estimates were prepared using different time periods and different estimation windows (including weekly and monthly returns). This provided a range of equity beta estimates between 0.7 and 0.95.

We also observe that it makes little difference to our findings whether the PwC estimate or our own is preferred. The lower WACC adopted in our decision reduces A2B Australia’s total costs by less than 2.3 per cent compared to the WACC proposed by CRA. [REDACTED]

We undertook a bottom-up cost assessment of Cabcharge

A2B Australia issues its own payment instrument: Cabcharge. Historically, A2B Australia has recovered the costs of issuing this payment instrument primarily via surcharges⁹⁸ levied on passengers.

In other payment systems, participants recover costs via a combination of charges on transactions and on card holders (e.g. annual fees, interest). In four-party schemes, issuers are compensated by acquirers through per-transaction interchange fees. These fees are regulated by the RBA and

⁹⁷ [REDACTED]

⁹⁸ A2B Australia describes these as service fees.

are publicly available. In common three-party schemes such as Diners or Amex the notional “acquiring side” of the business may similarly fund elements of the “issuing side” of the business.

We considered three options to account for Cabcharge payment instruments’ issuing costs:

- excluding specific issuing costs from our bottom up cost assessment, such that A2B Australia would only be able to recover costs specifically associated with accepting and processing in the surcharge. A2B Australia would therefore have to recover its direct issuing costs from account holders directly.
- excluding issuing costs from our bottom up cost assessment, but including a notional interchange fee to account for transfers between the acquiring sides of three party schemes and their issuing sides (this is the approach we took in our draft decision)⁹⁹
- allowing all issuing costs for Cabcharge payment instruments to be included in a separate bottom up cost assessment.

In response to our draft decision, A2B Australia submitted that ‘interchange fees are not costs that are directly incurred by in-taxi payment processors. Rather, payment processors, including A2B, pay merchant service fees’.¹⁰⁰ It suggested that it was difficult to establish the notional fees appropriate to include as part of A2B Australia’s cost of processing non-cash payments. For all payment methods, some proportion of issuing costs are funded by acquirers. These amounts are transparent for four party schemes in Australia as they are regulated by the RBA.

However, for three party schemes, like Cabcharge, there are no publicly available benchmarks. As pointed out by A2B Australia, ‘the reasonableness of the merchant service fees charged in respect of a card scheme is likely to depend on the size of the scheme’ (‘the higher the value of transactions processed, the lower the merchant services fee’) and ‘the magnitude of the benefits provided to cardholders and merchants under that scheme’ (more ‘significant ... benefits are likely to involve higher merchant services fees’).¹⁰¹

We have now decided that the third option better serves our objectives. Using either the first or second options would require us to make a judgement about A2B Australia’s approach to recovering issuing costs. This might prevent A2B Australia from recovering the reasonable cost of processing Cabcharge payment instruments.

Using the third option gives A2B Australia the choice as to how it recovers costs from Cabcharge account holders; i.e. through a non-cash payment surcharge or direct fees. We set a **maximum**

⁹⁹ In our draft decision, we used a notional interchange fee set to the RBA regulated weighted average (50 basis points) which we included as a cost of processing non-cash payments.

¹⁰⁰ Charles River Associates, Assessment of A2B’s reasonable costs of processing non-cash payments, p.13.

¹⁰¹ Charles River Associates, Assessment of A2B’s reasonable costs of processing non-cash payments, p.17.

surcharge. A2B Australia will be able to choose to charge a lower surcharge with higher account fees or vice versa.

To allow A2B Australia to recover its issuing costs through a surcharge, we have done a bottom up cost assessment for the part of A2B Australia's business that processes other payment methods, and another for the part that issues and processes Cabcharge payment instruments. The part that processes Cabcharge payment instruments includes issuing costs (for example card printing, account management, and working capital to fund account holder credit) which do not relate to accepting and processing other non-cash payment methods.

We excluded costs that are not reasonable costs of processing non-cash payments

In assessing the costs submitted to us by taxi payment processors we noticed that a number of costs were included which are not associated with processing non-cash payments.

Where possible we have excluded these from our bottom-up cost analysis. However, we note that we have not excluded all of these costs as the records taxi payment processors keep do not allow us to isolate them all.

Commissions paid to drivers

Taxi payment processors provide commissions or rebates to drivers ranging from 0.5 to 2.25 per cent.¹⁰² Commissions are provided to attract more drivers to use a payment processor's services. For some taxi payment processors, commissions are subject to a threshold performance.

We do not consider commissions to be a reasonable cost of processing non-cash payments. While currently the cost of commissions provided by taxi payment processors to drivers is passed on to passengers in the maximum surcharge, we do not consider this cost to be a reasonable cost of processing non-cash payments. Taxi payment processors are paying commissions to drivers but receive no service from drivers in return.

This reflects the view of the Taxi Industry Inquiry to reduce the maximum surcharge to the resource cost of processing non-cash payments.¹⁰³ This reduction was made on the basis that half of the surcharge was being rebated to drivers as commissions in some cases. These rebates were not considered to be part of the resource cost of providing non-cash payment services.

¹⁰² <https://www.ingogo.com.au/driver> (accessed on 17 April 2019).

¹⁰³ Taxi Industry Inquiry, Customers First: Service, Safety, Choice, Final Report, September 2012, p.217.

Other incentives provided to drivers

Some taxi payment processors also provide other incentives to drivers such as food vouchers, fuel discounts, refuelling stations, driver lounges, car wash facilities, and taxi meters. These incentives are effectively the same as commissions paid to drivers. These incentive payments are currently recovered from passengers through the five per cent surcharge. These are not reasonable costs of processing non-cash payments.

Fees paid to booking service providers

We have included an allowance in our further draft decision for fees paid to booking service providers (BSPs) and agents but not as much as sought by some payment processors.

A2B Australia disagreed with our draft decision to exclude an allowance for commissions paid to metropolitan taxi BSPs in our bottom up cost assessment. It submitted that it did not pay commissions but rather fees to BSPs for services they deliver. It stated it pays fees to BSPs to install, maintain and administer payment terminals on behalf of the payment processor.¹⁰⁴

With the further information provided we agree that some of the amount paid is likely to be for services provided by BSPs to A2B Australia, and therefore reasonable costs of accepting and processing non-cash payment transactions. However, we consider that the amount paid is likely to be in excess of the reasonable amount required for the services provided by BSPs.

A2B Australia provided some description of these services but there was no evidence provided to show that the fees are at a reasonable level. We note that some other taxi payment processors have similar arrangements with third parties to:

- manage the entire day to day relationship with drivers
- distribute and maintain terminals
- distribute EFTPOS consumables such as printer rolls
- recover chargebacks from drivers.

For these services other taxi payment processors pay much lower fees. While these arrangements do not include installation, apart from installation these arrangements are largely comparable.

In response to the notice issued under our compulsory information gathering powers A2B Australia provided information regarding terminal installation.¹⁰⁵ Based on that information, we consider that

¹⁰⁴ CRA, Assessment of A2B's reasonable costs of processing non-cash payments, p. 19, 12 August 2019.

¹⁰⁵ [REDACTED]

passengers receive little to no benefit from FAREWAYplus terminal installation and have therefore removed the allowance we previously allowed for installation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

While we consider that fees paid to metropolitan BSPs seem higher than what is reasonable, A2B Australia has provided evidence to the effect that maintenance and distribution costs are higher in regional and country areas. We also note that country and regional taxis tend to rely on A2B Australia's payment terminals. In our discussions with stakeholders we have heard that taxis in those areas generally do not use secondary payment terminals. As a result, agent fees paid by other BSPs in metropolitan areas may not be an appropriate benchmark for the BSP fees paid by A2B Australia in regional and country areas. For this reason, except for removing some costs associated with installation, we have not reduced BSP fees for terminals in those areas.

Taxi meter and dispatch functions

[REDACTED]

[REDACTED]

[REDACTED]

In particular, FAREWAYplus terminals provide meter and dispatch functions that benefit taxi drivers, operators and booking services. The costs for those functions should be recovered from those parties as they are compensated for them through taxi fares.

[REDACTED]

[REDACTED]

[REDACTED]

Cashing booths, driver centres and lounges

Some taxi payment processors also provide services which allow drivers to withdraw their non-cash payment takings immediately, in cash, so they do not need to wait until the next business day to receive their funds in their bank account. Taxi payment processors have facilities in Melbourne where drivers can withdraw their takings in cash. Some taxi payment processors also allow withdrawals from Australia Post and Western Union. Taxi payment processors sometimes charge drivers a fee for these expedited withdrawals.

We have excluded these costs. They are not reasonable costs of processing non-cash payments. Further, taxi payment processors can charge drivers separately for these services, and in some cases do. Any costs associated with these services should be recovered through those charges.

In response to our draft decision, Live Group noted that these centres and lounges are also used for driver sign ups and queries.¹⁰⁷ It also noted that about 62 per cent of Live Taxi's new driver sign ups occur at a Live Taxi lounge. Live Taxi considers that 'the cost of operating these centres, or at least 75 per cent of the cost base, is a genuine cost of providing non-cash payment services to taxis'.¹⁰⁸ We consider these administration costs are a reasonable cost of accepting and processing non-cash payments but cashing receipts is not.

As a result, where appropriate we have adjusted our bottom-up cost assessment for payment processors to include 75 per cent of their driver centre and lounge costs. Where those facilities were only used to provide cash for fares through terminals and account work we removed all of the costs associated with cashing centres. However, we were not able to make similar adjustments for payment processors who do not separately record these costs. This means that in those cases all

¹⁰⁶ [REDACTED]

¹⁰⁷ Live Group, submission received 5 August 2019, p.5.

¹⁰⁸ Live Group, submission received 5 August 2019, p.5.

costs associated with the relevant payment processors' centres and lounges have been included in our bottom up cost assessment.

Driver payment cards

Some taxi payment processors provide drivers with a driver payment card. Payments to drivers from taxi payment processors are deposited on to this card.

This cost is not a reasonable cost of processing non-cash payments because taxi payment processors could avoid this cost by depositing payments directly into taxi drivers' bank accounts.

Booking services

At least one payment processor appears to have included the costs associated with its taxi booking services. Booking services are not part of regulated non-cash payment services.

Lost property

Some taxi payment processors provide a lost property service. We consider this service duplicates the lost property services already provided by taxi booking service providers. This is paid for through fees drivers pay to taxi booking service providers. As a result, this cost is already recovered through taxi fares. It is not a cost of providing non-cash payment services.

Technology refresh costs

We have not included an additional allowance for the cost of changing payment terminals from one cellular technology to the next. When mobile networks upgrade their cellular technology from one generation to the next, eventually they stop servicing devices using the older technology.

The cost of managing changeover costs associated with the shutdown of older cellular networks is already included in the rental or purchase cost of payment terminals and the staffing costs associated with managing terminal fleets. With proper planning there is no need for a spike in capital expenditure on terminals or associated staff costs. In the lead up to a network changeover, terminals could be rented until the next generation technology is available more cheaply. Alternatively, if terminal ownership is more economical, next generation compatible terminals could be purchased to replace older terminals before the network changeover takes place. We note that Ingenico and Verifone both already offer 4G compatible terminals to acquirers.

Some taxi payment processors stated that they needed an allowance for technology refresh costs. They stated that due to short notice from mobile networks in the past they had to incur large costs over a short period of time to upgrade their terminals.

Taxi payment processors had reasonable notice of the shutdown of cellular networks to plan how best to manage their assets. As cellular network shutdowns happen every five or six years (roughly twice the length of the average lifecycle of payment terminals), we consider that taxi payment

processors have adequate time to plan and execute the renewal of technology to adjust for the planned shutdown of cellular networks.

We also note that Telstra has announced that it will close its 3G network in June 2024. This is more than four years away.¹⁰⁹

In our further draft decision, we did include an allowance for some technology refresh costs. We have received further advice from a payments expert suggesting that there would be little if any incremental cost for accelerated terminal replacement due to closure of the 3G network. The accounting life of an EFTPOS terminal is typically three years. As a result, the current terminal fleet will have been fully depreciated by June 2024 (when the 3G network closes). In addition to this 4G terminals have been available for some time, so it is feasible that the vast majority of terminals will have been lifecycle replaced with 4G capable units by June 2024.

Revenues associated with non-regulated services

In some cases taxi payment processors did not provide cost information for unregulated services that are included in their costs, but included the revenues associated with those services. Where this is the case we have subtracted those revenues from their total costs. If we were to include the costs without subtracting the associated revenues taxi payment processors would be compensated for unregulated services through the surcharge as well as through the unregulated revenue stream.

We have taken a similar approach in relation to the Multi Purpose Taxi Program (MPTP). We have subtracted MPTP revenues from A2B Australia's regulated costs as A2B Australia has included its MPTP costs in their cost information and is unable to tell us how much it costs to provide MPTP services in Victoria. If we did not subtract MPTP revenues from A2B Australia's regulated costs then A2B Australia would be compensated for providing MPTP services through both the non-cash payment surcharge and the MPTP payments it receives from the Victorian Government.

Tax

We have not included an allowance for tax in our bottom up cost assessment. We have already provided an allowance for tax by using a pre-tax WACC.

¹⁰⁹ Telstra, 1, 2, 3, 4 and 5: the continuing evolution of our mobile network, available at: <https://exchange.telstra.com.au/1-2-3-4-and-5-the-continuing-evolution-of-our-mobile-network/> [last accessed 22 October 2019].

Appendix C: our benchmarking assessment

In our consultation paper, we said we would use benchmarking as part of our approach to determine the reasonable cost of processing non-cash payments.

Benchmarking uses information on prices or costs from comparable markets to assess reasonable costs. An obvious benchmark for the cost of processing non-cash payments in taxis is the charge for similar services outside of the taxi payments industry. The underlying cost of processing non-cash payments should be quite similar and the market in which such services are supplied is likely to be competitive. The technology in payment terminals is almost identical and (with the exception of Cabcharge payment instruments) the same kinds of payment instruments are used in taxis as for other small businesses.

In our benchmarking, we have looked at charges from payment processors to small businesses for processing non-cash payments. Those charges represent the **cost** of processing non-cash payments for small businesses with revenues similar to taxis. We have used those costs as our benchmarks. Our benchmarking does not include the costs of issuing payment instruments or costs of blended services (for example, providing payment processing **with** credit services).

Our analysis shows that the current maximum surcharge is higher than the benchmarks adjusted to take into account matters specific to accepting and processing non-cash payments for taxis. This suggests that the current maximum surcharge is too high. It is higher than it needs to be in order to promote efficiency and to ensure that persons facilitating the making of non-cash payment transactions are able to recover reasonable costs.

We estimated benchmarks for EFTPOS and mPOS (mobile point of sale) terminals generally available to small businesses. An EFTPOS terminal is a standalone terminal while an mPOS terminal is a card reader which connects to a smartphone or tablet to process non-cash payments.

EFTPOS terminals can provide the same service as the terminals currently used by taxi service providers, while mPOS terminals provide a slightly different service than the EFTPOS terminals currently used by taxi service providers. The main difference is that most mPOS terminals cannot automatically calculate surcharges and some cannot print receipts. Because of this, we have not used mPOS terminals as relevant benchmarks. We consider that the costs of EFTPOS terminals are likely to be more comparable to the terminals used in the taxi payments industry, and so have used them for our benchmarks.

All payment terminals included in our benchmarks have 3G mobile connectivity and could be used in a taxi.

This appendix contains our analysis of cost benchmarks for non-cash payment services on offer to small businesses across the entire Australian economy. All charges presented in this chapter are inclusive of GST.

The current maximum surcharge is high compared to our benchmark

Our benchmarking indicates that the reasonable cost of processing non-cash payments for taxis could be as low as 1.9 per cent.

Our benchmark charges include the supply of multiple terminals. In discussions with drivers, booking service providers, and taxi payment processors we were told that many taxis have two terminals for processing non-cash payments. As a condition of their vehicle registration, all taxis must have a terminal that can process multi-purpose taxi program (MPTP) subsidies.¹¹⁰ These primary terminals are provided by the taxi's booking service provider. However, many drivers also have a secondary terminal. This is often to access better terms; including incentives and commissions offered by other taxi payment processors. Drivers sometimes also choose to have a secondary terminal as a backup in case there is some problem with the primary terminal. Some drivers also choose to use a secondary terminal so they can control their cash flows. Taxi booking service providers can automatically deduct their fees from payments processed through primary terminals. Due to this administrative process, payment through primary terminals also tends to take longer to arrive in drivers' bank accounts.

While we assessed offers for mPOS terminals we have not included these offers to estimate a benchmark for the reasonable cost of processing non-cash payments. EFTPOS terminals have a number of key features which mPOS terminals do not have. The most important is that the majority of mPOS terminals do not allow automatic surcharging. This is problematic because if a taxi driver were to use an mPOS terminal they would need to manually calculate the surcharge each time they used the terminal. This process would be time consuming, potentially inaccurate and could introduce opportunities for fraud.

We consider that the practice of having multiple payment terminals significantly increases the costs of the taxi payments industry. If we only allowed for a single terminal in our benchmarking then the benchmark costs would be much lower. Our benchmarking analysis suggests that with a single EFTPOS terminal it would be possible for a taxi to recover the cost of processing non-cash payments with a surcharge of as little as 1.6 per cent.

¹¹⁰ CPVV, commercial passenger vehicle registration conditions – definitions, available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions> (last accessed 4 April 2019).

However, since we are required to ensure that taxi payment processors are able to recover reasonable costs, and on the information presently before us those reasonable costs include multiple terminals, we have accounted for the use of multiple payment terminals in our benchmarking. This is consistent with our obligation, under section 8A of the Essential Services Commission Act 2001, to have regard to the degree of and scope for competition within the taxi payments industry.

If we did not allow for multiple terminals in our benchmarking a potential consequence might be to limit taxi drivers to using only the terminals provided by their booking service providers, which by default would be a terminal capable of processing MPTP subsidies. Taxis must have a payment terminal that can process MPTP subsidies under their registration conditions.¹¹¹ A2B Australia provides MPTP enabled payment terminals to almost all taxis in Victoria.

As mentioned in chapter three, we are aware that in some cases more than two terminals may be in use in each taxi. Many drivers have their own terminal, and often these drivers work in more than one taxi. Additionally, phones may also be used as payment terminals in some cases. In most cases however, there will only be one primary and one secondary terminal in use in a taxi at any one time.

Regardless of whether we assume that there are two terminals or more per taxi our benchmarking results for multiple terminals would not change (figure C.2). Our benchmarking is based on actual monthly turnover **per terminal** as provided by taxi payment processors. This means that even if we assumed there were more terminals in the typical taxi, the monthly turnover per terminal would be the same. Only the total turnover for the typical taxi would be higher which would reduce the implied surcharge for our single terminal benchmarking (figure C.1).

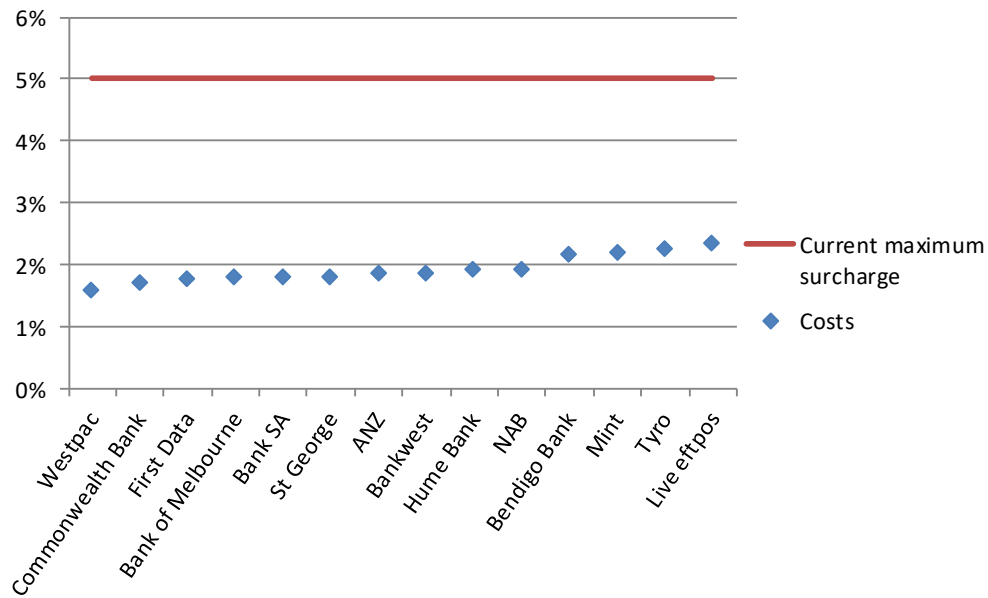
The current maximum surcharge is high compared to the cost of EFTPOS terminals

Our analysis shows that, if there is one EFTPOS terminal per taxi, the cost of processing non-cash payments (for a small business processing \$4,392 a month) ranges from 1.6 to 2.3 per cent. If there are multiple terminals per taxi costs range from 1.9 to 3.4 per cent.

Figures C.1 and C.2 show a comparison of the current maximum surcharge and offers for EFTPOS terminals available to small businesses assuming one and multiple terminals per taxi, respectively.

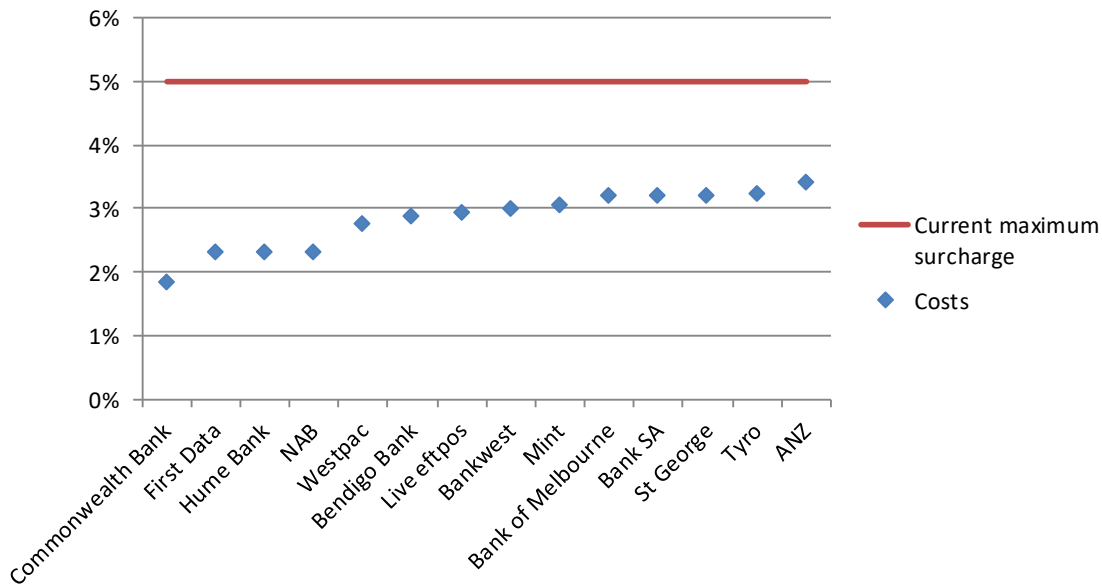
¹¹¹ CPVV, commercial passenger vehicle registration conditions – definitions, available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions> (last accessed 4 April 2019).

Figure C.1: offers for EFTPOS terminals (one terminal per taxi)



Source: payment processors' websites, taxi payment processors and ESC analysis

Figure C.2: offers for EFTPOS terminals (multiple terminals per taxi)



Source: payment processors' websites, taxi payment processors and ESC analysis

The current maximum surcharge is high compared to the cost of mobile POS terminals

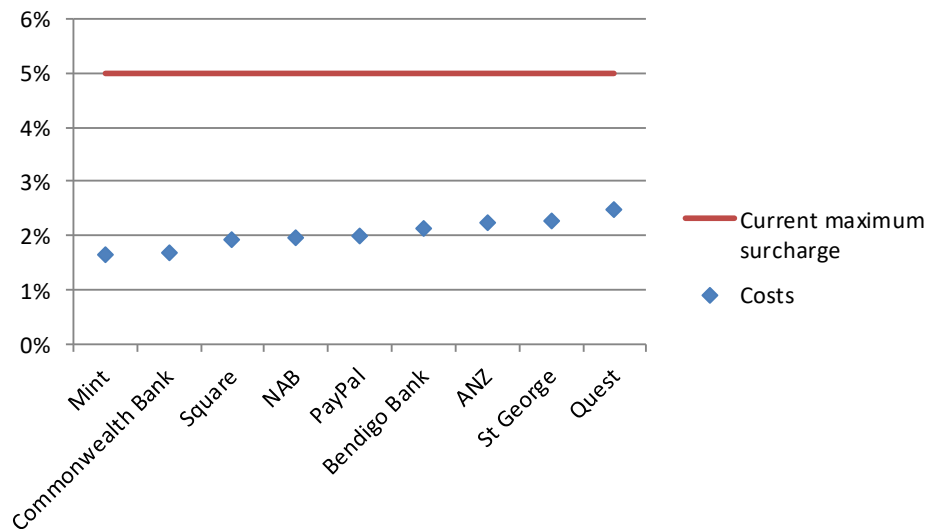
A mobile point-of-sale (mPOS) terminal is a card reader which connects to a smartphone or tablet to process non-cash payments. The merchant downloads an app on their smartphone or tablet, which may be used to manage transactions and receipts. The merchant may also send receipts via email or SMS or print receipts via a Bluetooth printer.

We have included our analysis for mPOS terminals separately as we recognise that they are not directly comparable to the service provided by the standard 3G EFTPOS terminals currently used in the taxi payments industry. While these terminals are not directly comparable to the services currently used in Australia we do note that mPOS terminals are widely used by taxis in other jurisdictions such as the United States.

Our analysis shows that, if there is one mPOS terminal per taxi, the cost of processing non-cash payments (for a business processing \$4,392 a month) ranges from 1.7 to 2.5 per cent. If there are multiple terminals per taxi, the cost ranges from 1.7 to 3.1 per cent.

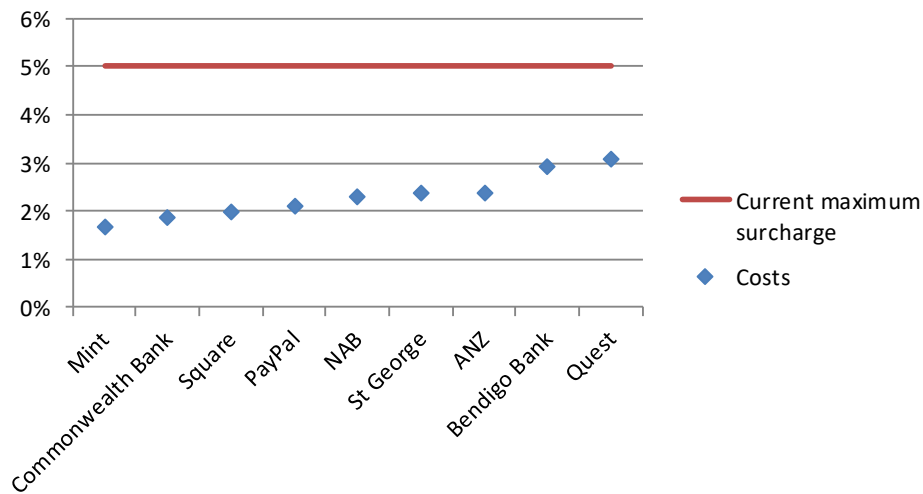
Figures C.3 and C.4 show a comparison of the current maximum surcharge and offers for mPOS terminals based on one terminal per taxi and multiple terminals per taxi, respectively.

Figure C.3: offers for mPOS terminals (one terminal per taxi)



Source: payment processors' websites, taxi payment processors and ESC analysis

Figure C.4: offers for mPOS terminals (multiple terminals per taxi)



Source: payment processors' websites, taxi payment processors and ESC analysis

We estimated our benchmarks using EFTPOS offers and revenue data

For our benchmarking, we estimated the monthly revenue from non-cash payments and the monthly cost of processing non-cash payments for the **typical taxi**. There are often fixed monthly costs associated with payment processing. We then divided the monthly cost of processing by the monthly revenue. This provides an estimate of what percentage of monthly revenue the typical taxi would need to spend on processing non-cash payments.

To estimate the monthly cost for a typical taxi, we used publicly available information on EFTPOS terminal offers from 14 payment processors. This information includes the fees and charges that may apply to a merchant who has an EFTPOS terminal with the payment processor. We have used these payment processors because:

- they provide EFTPOS and or mPOS terminals to small businesses in Australia processing about \$4,392 of non-cash payments per month, and
- information on their fees and charges is publicly available on their websites.¹¹²

Some of the costs associated with processing non-cash payments vary according to the value of transactions processed (i.e. monthly revenue). It is important for us to understand the monthly revenue for the typical taxi to estimate these costs.

To estimate the monthly non-cash payment revenue for the typical taxi, we used information provided by taxi payment processors. Since releasing our further draft decision, we have updated

¹¹² The only exception to this was ANZ. We used quotes provided over the phone. We included ANZ in our sample as we know that ANZ provides EFTPOS terminals to some taxi operators and at least one taxi payment processor in Victoria.

the monthly revenue per taxi to reflect additional information received from taxi payment processors.

We estimated the monthly non-cash payment revenue for the typical taxi

To estimate the monthly non-cash payment revenue for the typical taxi, we used the average monthly revenue per payment terminal provided to us by taxi payment processors. We then multiplied that figure by two to account for the fact that many taxi drivers use two payment terminals.

If the monthly revenue is higher or lower than what we have assumed, the monthly cost as a percentage of the monthly revenue may be different from our benchmarks.

The impact on the benchmark would depend on the magnitude of the change in revenue for taxis. However, our sensitivity analysis suggests that the impact on the average benchmark is likely to be minimal. For example, if the monthly revenue was 10 per cent lower than our estimate, the average benchmark cost (assuming two EFTPOS terminals) would increase by 0.3 percentage points. If the monthly revenue was 10 per cent higher than our estimate, the average benchmark cost would decrease by 0.1 percentage points.

In submissions, some stakeholders noted that the revenue for the average taxi may be decreasing.¹¹³ As our monthly revenue calculations are based on actual fares processed per terminal our benchmarking accounts for this.

We also note that there is a trend of increasing use of non-cash payments and decreasing cash payments.¹¹⁴ We expect this trend to continue. This trend is likely to decrease the impact of reduced taxi revenue on the volume of fares paid by non-cash means in taxis.

We estimated the monthly cost for the typical taxi

To estimate the monthly cost of processing non-cash payments for the typical taxi, we used the following information from EFTPOS terminal contracts:

- monthly fee
- merchant service fee
- business account fee
- card reader fee.

¹¹³ A2B Australia, submission received 1 March 2019, p.7.

¹¹⁴ RBA, Payments Data, available at: <https://www.rba.gov.au/payments-and-infrastructure/resources/payments-data.html> (last accessed 4 May 2019).

We included these fees as we consider that they are the main costs of processing non-cash payments.

We excluded costs, such as cancellation fees and terminal replacement fees as these costs are recovered through separate charges, not standard charges related to processing non-cash payments.

We have not included chargeback fees as we do not have information on the average number of chargebacks per terminal to estimate the cost of chargebacks for the typical taxi on standard EFTPOS terminal offers. Further, the cost data we have received from taxi payment processors suggest the cost of card fraud in the taxi payments industry is not material. Therefore, even if we could, including these costs would not affect the outcome of our analysis.

Some stakeholders have also noted that other payment processors charge a number of other fees such as cancellation fees, terminal non-return fees, establishment fees, additional outlet fees, and stationery fees. These fees differ significantly in type and structure between service providers. We also note that some of these fees are not relevant to taxis and for those that are, in the context of three years of payment processing (the standard life for an EFTPOS terminal), they are not material. Nonetheless we acknowledge and have taken into consideration the fact that if the above matters were taken into account our benchmarking would slightly underestimate the charges associated with EFTPOS terminals in that regard.

Monthly fees

The monthly fee is a flat fee charged **per month**. It covers the terminal rental¹¹⁵ and administrative costs of providing the EFTPOS terminal. In some cases, the monthly fee also covers the costs of processing a certain value of non-cash payments.

Merchant service fees

The merchant service fee is a fee charged **per transaction**. This is charged by the acquiring entity for processing non-cash payments.

Some payment processors charge the merchant a percentage of dollar value per eftpos, Visa and MasterCard transaction. Other payment processors charge the merchant a flat fee per eftpos transaction and percentage of dollar value per Visa and MasterCard transaction. Typically, payment processors charge the merchant a percentage of dollar value per American Express and Diners Club transaction.

¹¹⁵ A payment processor that offers mPOS terminals may charge an upfront fee for the card reader. In this case, the monthly fee does not cover terminal rental.

Some payment processors offer **included value** which is the total maximum dollar value of eftpos, Visa and MasterCard transactions included in the monthly fee. This means that if the total dollar value of eftpos, Visa and MasterCard transactions is within the included value, the merchant is not charged merchant service fees for these transactions (in other words the incremental cost of processing a transaction is zero). If the total dollar value of eftpos, Visa and MasterCard transactions exceeds the included value, the merchant is charged merchant service fees for these transactions, however only for the transactions that exceed the included value.

Typically, the publicly available information on merchant service fees applies to eftpos, Visa and MasterCard transactions only.¹¹⁶ Other card types such as American Express and Diners Club are often subject to separate pricing which is not publicly available, so we have used information from taxi payment processors on merchant service fees for American Express and Diners Club. After we released our draft decision, we updated the merchant service fees for American Express and Diners Club to reflect additional information from taxi payment processors.

Based on information from taxi payment processors, we have estimated the share of the value of non-cash payments (for a typical taxi) for each payment type is:

- eftpos: four per cent
- Visa/Mastercard: 79 per cent
- American Express: 15 per cent
- Diners Club: one per cent.

Our calculations vary slightly depending on whether the payment processor charges the same or different merchant service fees for different card types, and whether the payment processor offers included value. These calculations are shown below.¹¹⁷

Key calculations: merchant service fees

Merchant Service Fee type	Method of calculation
<ul style="list-style-type: none"> • The merchant service fee is the same for eftpos, Visa and MasterCard transactions, and • There is included value. 	$= (a \times b) + (c \times d) + (e \times f)$ <p>where</p>

¹¹⁶ There are some exceptions. For example, Live eftpos includes American Express and Diners Club in its flat fee and Square includes American Express in its flat fee.

¹¹⁷ We note that some payment processors do not offer default acceptance of Diners Club cards. If the merchant wishes to accept Diners Club cards, the merchant must enter into an agreement with Diners Club. Our calculations reflect what the merchant service fees would be if the merchant does accept Diners Club cards.

a = monthly revenue from eftpos, Visa and MasterCard transactions less included value
 b = eftpos, Visa and MasterCard merchant service fees
 c = monthly revenue from American Express transactions
 d = merchant service fee for American Express
 e = monthly revenue from Diners Club transactions
 f = merchant service fee for Diners Club

- The merchant service fee is the same for eftpos, Visa and MasterCard transactions, and
- There is no included value.

$$= (g \times h) + (i \times j) + (k \times l)$$

where

g = monthly revenue from eftpos, Visa and MasterCard transactions
 h = eftpos, Visa and MasterCard merchant service fee
 i = monthly revenue from American Express transactions
 j = merchant service fee for American Express
 k = monthly revenue from Diners Club transactions
 l = merchant service fee for Diners Club

- The merchant service fee for eftpos transactions is different from the merchant service fee for Visa and MasterCard transactions, and
- There is no included value.

$$= (m \times n) + (o \times p) + (q \times r) + (s \times t)$$

where

m = number of trips paid by eftpos
 n = merchant service fee for eftpos transactions
 o = value of trips paid by Visa and MasterCard
 p = Visa and MasterCard merchant service fee
 q = value of trips paid by American Express
 r = merchant service fee for American Express
 s = value of trips paid by Diners Club
 t = merchant service fee for Diners Club

Where the merchant service fee is a flat fee for eftpos transactions, and a percentage of dollar value for other card types, we need to know the **number** of eftpos transactions and the **value** of other card type transactions. To estimate the number of eftpos transactions, we divided the value of transactions for eftpos by the average fare.

Business account fees

The business account fee is a flat fee charged **per month**. Payment of this fee facilitates the supply of a bank account for the payment processor to settle funds to and debit fees and charges from the merchant.

Some payment processors require the merchant to hold and settle funds to a business account with them. These payment processors typically offer more than one type of business account with varying fees and inclusions.

We have assumed that the typical taxi would choose the lowest cost option if it is required to hold a business account with the payment processor. Generally, this is a business account with no monthly fee and free online banking.

Card reader fees

The card reader fee is a flat fee charged **upfront**. It is a charge for the supply of the card reader for mPOS terminals. This fee does not apply to EFTPOS terminals. We have assumed that the typical taxi would choose the lowest cost option if the payment processor offers more than one type of card reader.

To estimate the card reader fee, we divided the card reader fee by its useful life in months. Stakeholders have reported that the useful life of a card reader is three years (i.e. 36 months).

Key calculation: card reader fees

Card reader fees	=	Upfront card reader fee
		÷
		36

Monthly cost of processing non-cash payments for the typical taxi

To estimate the monthly cost of processing non-cash payments for the typical taxi, we summed the monthly fee, merchant service fees, business account fee and card reader fee.

Key calculation: monthly cost for the typical taxi

Monthly cost of processing non-	=	Monthly fee
cash payments for the typical taxi		+ merchant service fees
		+ business account fee
		+ card reader fee

We calculated the monthly cost as a percentage of monthly revenue

We calculated the monthly cost as a percentage of the monthly revenue for the typical taxi. This tells us what share of monthly revenue the typical taxi would need to spend on processing non-cash payments.

Key calculation: share of monthly revenue spent on non-cash payments

$$\begin{array}{l} \text{Share of monthly revenue spent} \\ \text{on non-cash payments} \end{array} = \frac{\text{Monthly cost of processing non-cash payments} \times 100}{\text{monthly revenue from non-cash payments}}$$

We note that some payment processors offer more than one EFTPOS terminal contract. Generally, as the monthly fee increases, the included value increases. Sometimes, the merchant service fees may also decrease. While we have had regard to all EFTPOS terminal offers from each payment processor, in this appendix we have only presented the EFTPOS terminal offer from each payment processor that is lowest cost for the typical taxi given our estimates of monthly revenue.

We considered cost differences in processing non-cash payments in taxis and the broader economy

In submissions to our consultation paper and draft decision, and in meetings, stakeholders identified a number of costs that they considered other payment processors in the broader economy do not incur. Many of the costs identified are incurred by all payment processors. However, there were some costs that taxi payment processors submitted that they did incur that appeared unusual. These costs included:

- Multiple payment terminals
- Mobile payment processing
- Taxi non-cash payment surcharge record keeping requirements¹¹⁸
- Taxi receipt requirements¹¹⁹
- Integration of payment terminal and taxi meter¹²⁰
- Multi Purpose Taxi Program subsidy processing¹²¹

¹¹⁸ CabFare, submission received 1 February 2019, p. 13.

¹¹⁹ CabFare, submission received 1 February 2019, p. 13.

¹²⁰ Commercial Passenger Vehicle Association of Australia, submission received 4 February 2019.

¹²¹ A2B Australia, submission received 1 March 2019, p. 16.

- Providing passenger credit
- High rate of fraud in the taxi payments industry¹²²
- High transaction costs of dealing with taxi drivers¹²³
- High merchant fees for taxis
- Taxi payment processors do not have the scale of other payment processors
- High churn rate of users of taxi payment terminals.
- Installation of terminals.

Our consideration of whether our benchmarking requires adjustments to account for these differences is set out in the following sections.

Some of these differences are likely to increase the cost of payment processing in taxis. However, cost information provided by taxi payment processors shows that the special characteristics of taxi payment processing do not to explain the gap we have observed between the maximum surcharge and surcharges prevailing in other parts of the economy.

Cost information from taxi payment processors has allowed us to estimate the overall cost impact of the differences between standard bank terminals and taxi terminals.



We have included an adjustment for multiple payment terminals

As discussed at the beginning of this appendix, it is common practice in the taxi payments industry for taxi drivers to have two payment terminals. For the reasons set out in that earlier section we have adjusted our benchmarking to account for this.

Mobile payment processing is a common service

In our benchmarking we have only used EFTPOS terminals with mobile network connectivity. This is a common feature of payment terminals which is used by many businesses. As a result our benchmarking already accounts for the cost of mobility enabled devices.

¹²² CabFare, submission received 1 February 2019.

¹²³ A2B Australia, submission received 1 March 2019, p. 5.

¹²⁴ [Redacted]

To the extent that taxi drivers do face cost differences, due to taking payment in places where mobile coverage is poor, these costs are not likely to be material. If a payment terminal cannot connect to its mobile network, then it takes a payment in offline mode. The consequence of this is that the terminal takes the payment without it being authorised by the issuing bank and thus there is a higher risk of the payment being declined and a chargeback occurring. The cost data that we have received from taxi payment processors show chargeback costs are not a material cost driver for taxi payment processors. As a result we have not made further adjustments for mobility costs.

CPV non-cash payment surcharge record keeping requirements and tax record keeping requirements are similar

Under the Commercial Passenger Vehicle Industry Regulations 2018 (Vic) (CPVI regulations), records of non-cash payment surcharges must be kept. These records include, among other things:

- The amount of the non-cash payment surcharge
- The amount that would have been payable by the hirer if the hiring had been paid for in cash
- The date on which the transaction was processed.¹²⁵

The records to be kept are outlined in more detail in appendix I.

The records that taxi payment processors are required to keep under the CPVI regulations are the type of records that other payment processors keep as part of normal business management requirements for tax purposes.¹²⁶ Therefore it is unlikely that the record keeping requirements under the CPVI regulations impose material costs on taxi payment processors compared to other payment processors. For this reason, we have not adjusted our benchmarking for non-cash payment surcharge record keeping requirements.

Receipts are a business administration cost

Under the CPVI regulations, the driver or booking service provider must provide the hirer with a receipt if requested. The receipt must include, among other things, the following information which is not generally included on a tax invoice:

- the registration number of the commercial passenger vehicle and

¹²⁵ Commercial Passenger Vehicle Industry Regulations 2018 (Vic), regulation 36.

¹²⁶ Transport for Victoria, Commercial Passenger Vehicles Industry Regulations 2018: Regulatory Impact Statement, March 2018, p. 15, available at: http://www.betterregulation.vic.gov.au/files/a03ee23b-d20d-4761-8d2d-a8b000fa34bb/Commercial_Passenger_Vehicle_Industry_Regulations_-_RIS.pdf (last accessed 2 April 2019).

- the number of the certificate of accreditation of the driver.¹²⁷

While these requirements may be different to those for other small businesses, providing tax invoices is a general cost associated with the administration of a business. Taxi drivers are required to produce receipts on request even if a customer pays in cash. The costs associated with these additional receipt requirements are not costs of processing non-cash payments. Further, any additional costs associated with the provision of registration and accreditation numbers are likely to be immaterial. As a result we have not made an adjustment to our benchmarking for differences in receipt requirements.

Taxis can process non-cash payments without taxi meter integration

Some taxi payment processing devices are physically connected to the taxi meter. This allows the payment terminal to identify where the trip began, where it ended, and how much it cost without any input from the driver.

While some taxi payment processors' terminals have this feature, many taxi payment processors' terminals do not. Also, there is no legislative requirement for taxi drivers to have a payment terminal that is integrated with their meter. As a result, meter integration is not required for drivers to process non-cash payments. The meter application is a cost of providing taxi services. It is not a cost of processing non-cash payments.

For these reasons we have not made an adjustment to our benchmarking to account for integration of payment terminals and taxi meters.

The Multi Purpose Taxi Program is funded by the Victorian Government

The Multi Purpose Taxi Program (MPTP) assists with the travel needs of people with severe and permanent disabilities. As part of this program, the Victorian government provides subsidised taxi travel to MPTP members. All taxis are required by Commercial Passenger Vehicles Victoria to have a payment terminal that can process MPTP subsidies.¹²⁸ As a result, taxi drivers must be able to process MPTP subsidies.

¹²⁷ Commercial Passenger Vehicle Industry Regulations 2018 (Vic), regulation 22.

¹²⁸ CPVV, commercial passenger vehicle registration conditions – definitions, available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions> (last accessed 4 April 2019).

Only A2B Australia¹²⁹ Oiii¹³⁰ and Uber¹³¹ have commercial agreements with the Victorian Government for the supply of MPTP services. To the extent that A2B Australia, Oiii and Uber incur costs in processing MPTP subsidies, these costs should be covered by the amount agreed with the Victorian Government. As MPTP costs should be recovered through taxi payment processors' agreements with the Victorian Government, we have not adjusted our benchmarking to reflect the additional costs associated with processing MPTP subsidies.

Although our benchmarking does not include an adjustment for the cost of MPTP subsidy processing, our bottom-up cost assessment includes those costs (and revenues). This is due to difficulties with accurately separating data associated with processing MPTP subsidies.

Provision of credit is not a standard cost of processing non-cash payments

Some taxi payment processors (for example, Ingogo and A2B Australia) provide credit to passengers that hold accounts with them. Account holders can use this line of credit to pay taxi drivers either by using an app (Ingogo and Cabcharge) or by using an account card (Cabcharge). A2B Australia and Ingogo keep track of these payments and send monthly invoices to account holders.

In a traditional four party payment system (such as Visa or MasterCard) where the card issuer extends the card holder credit (for example, bank issued credit cards), providing credit is treated as a cost of issuing a payment method and charges are levied on card holders that access credit. It is not a cost of **accepting** and processing non-cash payments. We also note that not all taxi payment processors provide passengers credit. For these reasons we have not made an adjustment for the cost of providing credit to passengers in our benchmarking.

The taxi payments industry has a similar fraud risk to other industries

Historically, when non-cash payments were processed manually with dockets and imprints, fraud may have been more frequent in the taxi payments industry. However, in discussions with banks, we have been told that with contemporary payments technology, payment fraud has become much less frequent in taxis. As a result, the taxi payments industry does not have a materially different risk of fraud when compared to other industries.

¹²⁹ A2B Australia, submission received 1 March 2019, P. 16.

¹³⁰ Oiii, Net-cabs launches new technology for processing Multi Purpose taxi Program cards in Melbourne, available at: <https://www.oiii.com/mptp.php> (last accessed 3 April 2019).

¹³¹ CPVV, MPTP Expansion Program trial with Uber in Greater Geelong, available at: <https://cpv.vic.gov.au/about-us/news/taxis/mptp-expansion-program-trial-with-uber-underway-in-greater-geelong> [last accessed 11 March 2020].

Further, to the extent that it is different, the cost of that difference to taxi payment processors is not material. The cost information provided to us by taxi payment processors suggest that fraud related costs make up between 0.25 and 1.7 per cent of taxi payment processors' costs. If we assume that the current maximum surcharge of 5 per cent was reflective of taxi payment processors' costs, this would mean that fraud costs account for less than one tenth of a percentage point of the surcharge (0.09%). Any difference in fraud related costs between taxi payment processors and other payment processors would only be a fraction of this.

For these reasons, we have not made an adjustment for differences in fraud risk in our benchmarking.

The big four banks service taxi drivers indirectly

Some stakeholders submitted that banks, and other payment processors operating in the broader economy, do not want to deal with taxi drivers due to the perceived risk associated with the taxi payments industry (generally attributed to fraud). A2B Australia also noted that the taxi industry is highly fragmented and the costs of servicing a large number of relatively small businesses are relatively high.¹³²

As noted above, the information provided to us suggests fraud is not a material cost of processing non-cash payments in the taxi payments industry. Further, banks and merchant aggregators service many small businesses using less than four terminals. However, we accept that the major banks in Australia have not attempted to market products specifically aimed at taxi drivers. But we also note that there is little reason for the big four banks to do so while all of the major taxi payment processors use the major banks as their acquirers. Major banks effectively already serve the taxi payments industry. We also note that potential barriers to competition in the taxi payments industry noted by some stakeholders¹³³ might make it unattractive for banks to enter the industry.

Although major banks are not marketing products directly to taxi drivers, in meetings, banks indicated that they use the same assessment processes for taxi drivers as they do for other payment terminal applicants. They also indicated that some drivers can and do use their payment terminals.

We accept that in some, or potentially even many cases, taxi drivers might not meet a bank's criteria to be approved for a payment terminal due to their credit or work history. However, our benchmarking shows that banks do market to businesses with similar monthly non-cash payment turnover to taxis: \$1500 of transactions are included as a minimum in many plans that banks offer.

¹³² A2B Australia, submission received 1 March 2019.

¹³³ Live group, submission received 19 June 2019, p. 3.

We observed a range of merchant service fees paid by taxi payment processors

We have considered, but not adjusted for, differences in merchant service fees charged to taxi payment processors relative to payment processors in other industries in our benchmarking.

Some taxi payment processors submitted that the merchant service fees they pay are high relative to the fees paid in other industries. The cost information provided to us by taxi payment processors show a wide range of wholesale merchant service fees paid by taxi payment processors, with some taxi payment processors paying relatively low merchant service fees.

We do not have information on the wholesale merchant service fees charged to all the payment processors in our benchmarking sample. However, our bottom up cost assessment gives us some indication of the potential differences in costs between taxi payment processors and other payment processors due to merchant service fees. The share of merchant service fees as a share of taxi payment processors costs suggests that differences in the merchant service fees paid cannot account for the difference between taxi payment processors' reasonable costs (3.5 to 3.9 per cent) and the lowest price offer in our benchmarking (1.9 per cent).

In addition to this, we also note that Live group, which is also a taxi payment processor, is able to offer a retail payment processing product at a similar price to the other benchmark firms.

Taxi payment processors are smaller scale than other payment processors

We acknowledge that taxi payment processors are of a smaller scale than some other payment processors included in our benchmarking, and as a result may face higher per transaction costs in some areas. We have not adjusted our benchmarking to reflect this for two main reasons:

1. the purpose of our benchmarking is to understand the cost of comparable services available,
2. our bottom up cost assessment accounts for scale by using taxi payment processors' actual costs as inputs and we do not have information on the scale of taxi payment processors compared to other payment processors.

The churn rate of taxi payment terminals is higher

In its submission to our draft decision, Live group said that the churn rate of a taxi specific payment terminal is significantly higher than an SME payment terminal: 8 months for taxi drivers and 27 months for small businesses.¹³⁴ Information that we have from payment processors suggests that driver onboarding costs may account for around 10 to 15 per cent of total costs for taxi payment

¹³⁴ Live group, submission received 19 June 2019.

processors.¹³⁵ ¹³⁶ If churn is three times higher for taxi payment terminals then onboarding costs would be about three times higher. As a result high driver churn may account for taxi payment processors' costs being seven to 10 per cent higher than the firms in our benchmarking. This only accounts for a small part of the observed difference between the current maximum surcharge and surcharges in the wider payments industry.

Installation of terminals

A2B Australia's FAREWAYplus terminals are installed in vehicles. In most cases A2B Australia pays for the full cost of installation.¹³⁷

Following our further draft decision, we have received further information on the installation of FAREWAYplus terminals. FAREWAYplus terminal installation does not improve the reliability of the terminal's connection for the purpose of processing payments in a way that provides meaningful benefits to customers. To the extent that installation provides benefits, those benefits accrue to A2B Australia, taxi booking service providers, and taxi drivers/operators.

[REDACTED]

We have not included an adjustment to our benchmarking for installation costs. Most taxi payment processors do not install their terminals in taxis and there is no material customer benefit from installation.

¹³⁵ [REDACTED]

¹³⁶ [REDACTED]

¹³⁷ A2B Australia, FAREWAYplus installation policy, available at: <http://merchants.cabcharge.com.au/wp-content/uploads/2016/05/FWPInstallationpolicyMay2016.pdf> [last accessed 5 September 2019].

¹³⁸ [REDACTED]

We used benchmarks from Australian banks and merchant aggregators

Payment terminals that are generally available to small businesses provide the same service to consumers that payment terminals in taxis provide to passengers. We consider that payment terminals from banks and merchant aggregators, in Australia, are the appropriate services to consider when benchmarking drivers' reasonable cost of processing non-cash payments.

In its submission to our consultation paper, CabFare submitted that the services provided by ticketing agents and Afterpay are similar to those provided by taxi payment processors and gave some examples of the fees charged in those industries.¹³⁹

We consider that the services provided by booking agents and Afterpay are not appropriate benchmarks for the cost to drivers of processing non-cash payments.

Booking agents

Booking agents provide different services to taxi payment processors. In particular:

- the fees charged by ticketing agencies are for booking rather than for processing non-cash payments
- ticketing agencies sell tickets for events on behalf of event organisers and
- ticketing agencies sometimes charge a booking fee for providing the booking service.

This is different from the surcharge, which is an additional charge for processing non-cash payments.

Afterpay

Afterpay is a multi-faceted platform providing marketing services, consumer credit and payment services. The high fees that Afterpay charges merchants reflect the combined value of these services, only a small portion of which are related to payment processing. It is very different in nature to the services offered by taxi payment processors, including in terms of the risks associated with the provision of these services. This means Afterpay is not a reasonable benchmark for a taxi payment processor that accepts third party payment methods.

¹³⁹ CabFare, submission received 1 February 2019.

Appendix D: how we have assessed the maximum surcharge

Our approach to this review

In coming to our final decision on the maximum surcharges, we undertook benchmarking and bottom-up cost assessments and we also considered stakeholder submissions. This is consistent with the approach we set out in our consultation paper.¹⁴⁰ We consider this approach best meets our legislative objectives.

Benchmarking and bottom-up cost assessments helped us establish the maximum surcharges that best meets our legislative objectives, including our obligation to ensure that persons facilitating the making of non-cash payment transactions are able recover the reasonable cost of accepting and processing such transactions, in the light of the matters we are required to ensure and have regard to (see appendix H for details). As we discussed in our consultation paper, we consider the term 'reasonable cost' to mean costs which are moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability.¹⁴¹

We analysed the costs of taxi payment processors

Through information requests, and issuing notices under our compulsory information gathering powers, we collected information from taxi payment processors about their services, assets, costs and revenues. This information allowed us to understand the types of costs taxi payment processors incur and what the reasonable cost of accepting and processing non-cash payment transactions may be.

For our bottom-up cost assessment, we calculated taxi payment processors' actual costs using the building block methodology. This methodology allows for operating costs, depreciation costs and a return on investment. Following our initial analysis, we used these actual costs from taxi payment processors' building block models to determine what surcharge would ensure that taxi payment processors are able to recover the reasonable cost of processing non-cash payments. To the extent the data available allowed us, we only included the costs and revenues of the taxi payment processors' regulated services (i.e. non-cash payment transactions).

¹⁴⁰ Essential Services Commission, Taxi non-cash payment surcharge review 2019: consultation paper, December 2018, pp.11-12.

¹⁴¹ Essential Services Commission, Taxi non-cash payment surcharge review 2019: consultation paper, December 2018, p.9.

This helped us to establish the appropriate maximum surcharge to ensure that taxi payment processors are able to recover the reasonable costs of processing non-cash payments. See appendix B for details.

We analysed and compared the costs of payment processors in the broader economy

In our benchmarking, we looked at charges from payment processors to small businesses for processing non-cash payments. We considered the similarities and differences in processing non-cash payments between taxi payment processors and payment processors in the broader economy. Our benchmarking provided us some insight into an appropriate maximum surcharge having regard to costs in the broader economy. See appendix C for details.

Our assessment approach helps us meet our legislated requirements

Our objectives

In setting the maximum non-cash payment surcharges (maximum surcharges) our objectives are to:

- Promote efficiency in the non-cash payment transaction industry by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, we must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.¹⁴²
- Promote the long term interests of Victorian consumers. In seeking to achieve this objective we must have regard to the price, quality and reliability of essential services.¹⁴³

Promoting efficiency

We signalled in our consultation paper that for the purpose of this review, efficiency means:

- the right amount of non-cash payment services is provided to consumers (that is, there is no excess demand or excess supply)
- there are the right incentives for investment and innovation by non-cash payment service providers and
- unnecessary costs are not incurred by customers when making non-cash payments.¹⁴⁴

To promote these outcomes the maximum surcharges should not be set too low or too high. If the maximum surcharges are set too low then taxi payment processors will not be able to recover their reasonable costs, including a reasonable return on their investment. This could lead to under-

¹⁴² Commercial Passenger Vehicle Industry Act 2017 (Vic) s.122.

¹⁴³ Essential Services Commission Act 2001 (Vic), s. 8.

¹⁴⁴ Essential Services Commission, Taxi Non-Cash Payment Surcharge Review 2019: Consultation Paper, p.8.

investment in non-cash payment processing services which could see passengers wanting to make non-cash payments for taxi travel finding they are unable to do so (meaning there is excess or unmet demand for these services). On the other hand, if the maximum surcharges are set too high, customers may pay more than would otherwise be necessary. Further, it could lead to over-investment in non-cash payment processing (excess supply) which might eventually be 'stranded' if the recoverable value of the surcharge falls through regulation or competition.

Both our benchmarking and bottom-up cost assessments suggest that the current five per cent maximum surcharge is more than the amount required to ensure that taxi payment processors are able to recover the reasonable cost of processing most non-cash payments. The bottom-up cost assessment also shows that a surcharge of four per cent (including GST) would ensure that taxi payment processors are able to recover the reasonable cost of processing non-cash payments. Our benchmarking confirms that a surcharge of four per cent (including GST) is appropriate.

However, our bottom up cost assessment shows that a surcharge of six per cent (no GST payable) is required for A2B Australia to recover the reasonable cost of processing Cabcharge payment instruments.

Promoting the long term interests of Victorian consumers

Maximum surcharges that promote efficiency in the non-cash payment transaction industry will also promote the long term interests of consumers. Surcharges that promote the efficient provision of non-cash payment services will provide the financial incentives taxi payment processors require to provide an affordable service at the level of quality and reliability that consumers expect.

Considering other relevant matters

We must also have regard to a range of other matters: such as the financial viability of the industry, the degree of and scope for competition within the industry, and consistency in regulation between States and on a national basis. In addition, we must ensure that the expected costs of the proposed regulation do not exceed the expected benefits, and that the determination takes into account and clearly articulates any trade-offs between costs and service standards.

Efficiency in the industry and incentives for long term investment: As mentioned earlier, we consider that maximum surcharges of six per cent for Cabcharge payment instruments and four per cent for all other payment instruments, would promote efficiency, while continuing to ensure that taxi payment processors are able to recover the reasonable cost of processing non-cash payments. As taxi payment processors will be able to recover their reasonable costs (including a return on and of capital) there will be appropriate incentives for long term investment.

Financial viability of the industry: Our bottom-up cost assessment shows that taxi payment processors require a surcharge of between around 3.5 and 3.9 per cent to recover their reasonable

costs. Taxi payments industry will be financially viable under our decision to set the maximum surcharge at four per cent.

Our bottom-up cost assessment also shows that a maximum surcharge of six per cent will ensure that A2B Australia is able to recover the reasonable cost of issuing, accepting and processing Cabcharge payment instruments.

Degree of and scope for competition within the industry, including countervailing market power and information asymmetries: In addition to competition in the taxi non-cash payment transaction industry, competition in the wider commercial passenger vehicle market has been taken into consideration. Reduced taxi revenues, from increased competition between commercial passenger vehicle services, were accounted for in our benchmarking and bottom-up cost assessment.

Also, our decision to allow multiple payment terminals in our benchmarking is a result of our consideration of the degree of and scope for competition within the taxi non-cash payment transaction industry, whilst ensuring that taxi payment processors are able to recover the reasonable cost of accepting and processing non-cash payment transactions. If we did not allow for multiple terminals in our benchmarking then taxi drivers may be placed in a position where they have no choice but to use the terminals provided by their booking service providers. Taxi drivers must have a payment terminal that can process multi-purpose taxi program subsidies.¹⁴⁵ A2B Australia provides multi-purpose taxi program enabled payment terminals to almost all taxis in Victoria. See appendix A for details.

Providing a separate maximum surcharge for Cabcharge payment instruments will also help A2B Australia compete with other three party payment schemes. It will give A2B Australia choice on how to balance its charges between account fees and the non-cash payment surcharge.

Relevant health, safety, environmental and social legislation applying to the industry: We took into account the various regulations applying to the industry. Among other things we considered vehicle registration conditions and anti-money laundering legislation.¹⁴⁶

The benefits and costs of regulation for consumers and users of the services and regulated entities: Overall our decision to have two maximum surcharges will decrease the amount that passengers pay in non-cash payment surcharges. This decrease will benefit passengers, but having two surcharges will also improve price signals to end users.

¹⁴⁵ CPVV, commercial passenger vehicle registration conditions – definitions, available at: <https://cpv.vic.gov.au/vehicle-owners/registration-conditions/commercial-passenger-vehicle-registration-conditions-definitions> (last accessed 4 April 2019).

¹⁴⁶ See appendix C.

The increase in the maximum surcharge for Cabcharge payment instruments will increase the amounts paid by Cabcharge account holders. This increase reflects the cost of processing Cabcharge payment instruments. As the cost of Cabcharge payment instruments will be recovered from Cabcharge account holders, those costs will not have to be collected from users of other payment methods. As a result we can reduce the maximum surcharge for passengers using other payment methods. This will provide those passengers (including low income and vulnerable consumers) with an annual saving of roughly \$4 million.

In short Cabcharge account holders will bear the costs of Cabcharge payment instruments and users of other payment methods will bear the costs associated with their payment choices. These price signals will improve efficiency in the industry.

The cost of changing the maximum surcharge will be comparatively low. Changing the maximum surcharge on payment terminals will be a straightforward change to the terminals' software that can be made via the terminals' mobile data connections in most cases. The cost of reprinting fare stickers is also likely to be immaterial compared to the total savings for passengers.

We consider that the improvement in efficiency due to better price signals will outweigh the relatively small costs of changing the maximum surcharge. For that reason, we consider that the expected costs of the proposed regulation do not exceed the expected benefits.

Consistency in regulation between States and on a national basis and any relevant interstate and international benchmarks in comparable industries: We looked at regulation of non-cash payments in taxis on a national basis and overseas. We observed a wide range of surcharges applying from zero to 10 per cent. Except for where surcharging has been banned, little reason was given to justify the quantum of surcharges.

While most states in Australia apply a five per cent maximum surcharge in taxis, they have not made public why this surcharge has been adopted. We observe that these maximums were all adopted after Victoria implemented a maximum surcharge of five per cent.

The particular circumstances of the regulated industry and the prescribed goods or services for which the determination is being made: Our benchmarking and bottom-up cost assessment both take into consideration the particular circumstances of the regulated industry and the services for which the determination is being made. They do so by, among other things, taking into account the cost differences between taxis and other merchants processing non-cash payments. They also take into account the actual costs and revenues of taxi payment processors.

The efficient costs of supplying regulated services and of complying with relevant legislation: Our benchmarking and bottom-up cost analysis consider the reasonable cost of providing the regulated service and of complying with the relevant legislation. Further detail can be found in chapters one, two, three, and appendices B and C.

The return on assets in the regulated industry: We have considered the return on assets in the taxi non-cash payments industry. This was done implicitly through our benchmarks and explicitly in our bottom-up cost assessment. See appendices B and C for further detail.

Trade-offs between costs and service standards: Our further draft decision will allow taxi payment processors to recover the reasonable cost of processing non-cash payments through the maximum surcharges. As a result it is unlikely that service standards will suffer.

Appendix E: our legislative considerations

The commission's statutory power to determine the maximum surcharge

The Essential Services Commission's (the commission) power to determine the maximum amounts of non-cash payment surcharges in taxis is provided by the Essential Services Commission Act 2001 (Vic) (ESC Act) and the Commercial Passenger Vehicle Industry Act 2017 (Vic) (CPVI Act).

Section 32 of the ESC Act gives the commission the power to regulate 'prescribed prices for or in respect of prescribed goods and services supplied by or within a regulated industry'. Section 123 of the CPVI Act provides that, for the purposes of the ESC Act, 'non-cash payment transactions are prescribed services' and 'the maximum amounts of non-cash payment surcharges are prescribed prices'. Section 121 of the CPVI Act provides that, for the purposes of the ESC Act, the 'non-cash payment transaction industry is a regulated industry'.

A 'non-cash payment transaction' is defined in section 3 of the CPVI Act to mean 'the payment, other than by cash, of any amount due in respect of the hiring of a commercial passenger vehicle'.

A 'non-cash payment surcharge' is defined in section 112 of the CPVI Act as a fee or charge:

- added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction; or
- payable by the owner or driver of a commercial passenger vehicle or by all or any of them because the payment of an amount payable in respect of the hiring of the vehicle is made wholly or partly by means of a non-cash payment transaction.

The CPVI Act requires the commission to complete a review of a price determination no later than two years after it is made.¹⁴⁷

The commission's objectives

The CPVI Act states that the objective of the commission in relation to the non-cash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, the commission must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.¹⁴⁸ 'Reasonable cost' for the

¹⁴⁷ Commercial Passenger Vehicle Industry Act 2017 (Vic), s. 124.

¹⁴⁸ Commercial Passenger Vehicle Industry Act 2017 (Vic), s.122(1)-(2).

purposes of section 122 of the CPVI Act is defined to include 'any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards'.¹⁴⁹

The ESC Act states that in performing its functions and exercising its powers, the objective of the commission is to promote the long term interests of Victorian consumers. In performing its functions and exercising its powers in relation to essential services, the commission must in seeking to achieve this objective have regard to the price, quality and reliability of essential services.¹⁵⁰ Without derogating from this obligation and the requirements under section 8A of the ESC Act outlined below, the commission must also when performing its functions and exercising its powers in relation to a regulated industry do so in a manner that the commission considers best achieves any objectives specified in the empowering instrument, in this case being the CPVI Act.¹⁵¹

In making a price determination, the commission must adopt an approach and methodology which the commission considers will best meet the objectives specified in the ESC Act and any relevant legislation.¹⁵² Section 33(5) of the ESC Act states that a price determination by the commission may regulate a prescribed price for prescribed goods and services in any manner the commission considers appropriate. Section 124 of the CPVI Act provides that the commission may regulate prescribed prices by determining different prices according to the circumstances specified in the determination if it considers it necessary to do so in order for it to comply with its obligation to ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.

Factors the commission must have regard to

Section 8A of the ESC Act provides that in seeking to achieve the commission's objective to promote the long term interests of Victorian consumers, the commission must have regard to the following matters to the extent that they are relevant in any particular case –

- efficiency in the industry and incentives for long term investment;
- the financial viability of the industry;
- the degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries;
- the relevant health, safety, environmental and social legislation applying to the industry;

¹⁴⁹ Commercial Passenger Vehicle Industry Act 2017 (Vic), s.122(3).

¹⁵⁰ Essential Services Commission Act 2001 (Vic), s. 8.

¹⁵¹ Essential Services Commission Act 2001 (Vic), s. 8A(2).

¹⁵² Essential Services Commission Act 2001 (Vic), s. 33(2).

- the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for consumers and users of products or services (including low income and vulnerable consumers) and regulated entities;
- consistency in regulation between States and on a national basis;
- any matters specified in the empowering instrument (i.e. the CPVI Act).

Section 33(3) of the ESC Act provides that in making a price determination, the commission must have regard to –

- the particular circumstances of the regulated industry (i.e. the non-cash payment transaction industry) and the prescribed goods and services (i.e. non-cash payment transactions) for which the determination is being made;
- the efficient costs of producing or supplying regulated goods or services and of complying with relevant legislation and relevant health, safety, environmental and social legislation applying to the regulated industry;
- the return on assets in the regulated industry;
- any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;
- any other factors that the commission considers relevant.

In addition, section 33(4) of the ESC Act provides that in making a determination, the commission must ensure that –

- the expected costs of the proposed regulation do not exceed the expected benefits; and
- the determination takes into account and clearly articulates any trade-offs between costs and service standards.

We set the maximum surcharge in taxis

We determine the maximum surcharge in taxis. We do not regulate non-cash payment surcharges for rideshare and hire car services.¹⁵³ Rideshare and hire car non-cash payment surcharges are regulated by the Reserve Bank of Australia under the national payment systems framework.¹⁵⁴

¹⁵³ Commercial Passenger Vehicle Industry Act 2017 (Vic), s. 112(2).

¹⁵⁴ RBA 2016, Standard No. 3 of 2016: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions, May.

Appendix F: regulation of non-cash payment surcharging in other industries

The Reserve Bank of Australia is responsible for regulating non-cash payment surcharging in every industry except the taxi industry. Under the Payment Systems (Regulation) Act 1998 the RBA has the power to:

- designate payment systems, and in those designated payment systems
- impose an access regime on the participants
- determine standards to be complied with by the participants.

The RBA regulates non-cash payment surcharges through its standard on *Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions* (the standard).¹⁵⁵

It is important for us to understand the RBA's role as the Commercial Passenger Vehicle Industry Act 2017 specifically states that we do not have the power to set fees and charges regulated by the RBA.¹⁵⁶

Surcharging is allowed in Australia

In Australia, merchants may surcharge for non-cash payments if they choose, provided, in respect of the surcharges that are relevantly regulated, the surcharge is not excessive.¹⁵⁷ A surcharge is considered excessive if it exceeds the 'cost of acceptance'. The standard allows surcharging that reflects the average cost to a business of accepting different payment methods.

The Competition and Consumer Act 2010 (Cth) covers surcharges on the following card payment systems:

- eftpos (debit and prepaid)
- MasterCard (credit, debit and prepaid)
- Visa (credit, debit and prepaid), and
- American Express companion cards.¹⁵⁸

From 1 September 2017, all businesses, except taxis, that impose surcharges on card transactions have been required to comply with the prohibitions introduced by the Competition and Consumer Amendment (Payment Surcharges) Act 2016 (Cth). Commercial passenger vehicle specific

¹⁵⁵ Available at: <https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/regulations.html>

¹⁵⁶ Commercial Passenger Vehicle Industry Act 2017, s.112(2)(a-b).

¹⁵⁷ Competition and Consumer Act 2010 (Cth), s. 55B(1).

¹⁵⁸ Issued through an Australian financial service provider, rather than directly through American Express. American Express proprietary cards (issued directly by American Express) are not presently covered by the ban. Source: ACCC 2018, Payment surcharges: only charge what it costs you, January, p.1.

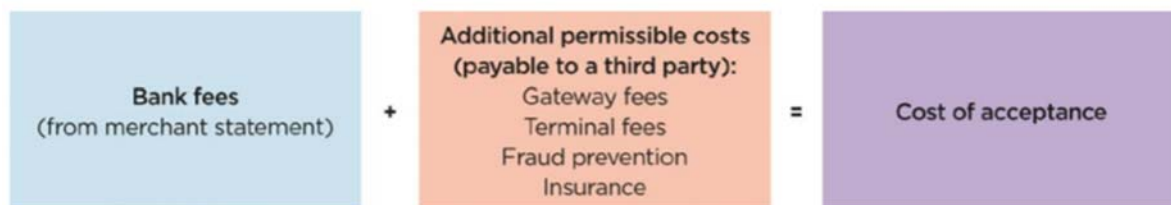
payment instruments, including Cabcharge, are not designated payment systems under the standard. The RBA excluded the taxi industry from the standard as surcharging in taxis was already regulated by state regulators.¹⁵⁹

A surcharge must not exceed the average cost of acceptance

Under the RBA's standard, a merchant's surcharge for a particular type of card should not exceed the average cost of acceptance over the most recent 12 month period for that type of card. For example, if the average cost of acceptance for Visa Credit is 1 per cent then the merchant can only surcharge 1 per cent on Visa credit card payments. Box F.1 shows the allowable cost of acceptance under the RBA standards.

Box F.1: Cost of acceptance under the standard

Calculating your 'cost of acceptance'



Source: ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2

Bank fees

The standard requires the merchant's acquirer (bank) or payment processors to provide an annual statement showing the average cost of acceptance for each payment method. The average cost of acceptance is expressed in percentage terms.

The statement must include:

- merchant service fees paid to an acquirer (bank) or payment processor
- fees paid to an acquirer or payment processor for the rental and maintenance of payment card terminals
- fees paid to an acquirer or payment processors for providing gateway or fraud prevention services
- any other fees paid to an acquirer or payment processor incurred in processing card transactions, including cross-border transaction fees, switching fees and fraud related chargeback fees.¹⁶⁰

¹⁵⁹ RBA 2016, Review of Card Payments Regulation: Conclusions Paper, May, p. 37.

¹⁶⁰ RBA 2016, Standard No. 3 of 2016: Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions, May, pp.6-9.

Other allowable costs

There are other allowable costs paid to third parties but merchants must calculate these costs themselves. These other costs include:

- gateway fees
- the cost of fraud prevention services paid to an external provider
- any fees for the rental or maintenance of card terminals paid to a provider other than the merchant's acquirer or payment processor
- the cost of insuring against forward delivery risk.¹⁶¹

These costs must be supported by contracts, statements or invoices.

Internal costs are not allowed

Merchants' internal costs such as labour or electricity costs are not allowed to be recovered via the surcharge.¹⁶²

The ACCC is responsible for enforcing the surcharging standard

Economy-wide concerns over excessive surcharges resulted in the Government giving the Australian Competition and Consumer Commission (ACCC) the power to enforce a ban on excessive surcharges under the Competition and Consumer Act 2010 (Cth). The ACCC has investigation and enforcement powers in cases of possible excessive surcharging. If the ACCC has reasonable grounds to believe that a merchant has breached the ban, it can issue an infringement notice or take court action against the merchant.

The RBA's guidance on surcharge rates

The RBA acknowledges that merchants have a wide range of payment costs depending on their size and which industry they belong to. But as a guide, the RBA has stated that surcharges could range from 0.5 per cent to 2 percent depending on the type of card used.

The RBA also notes that in general smaller merchants face higher payment costs than larger merchants and may also have higher costs than the above ranges.

Interchange fees are also regulated by the RBA

Interchange fees are paid between banks for the acceptance of card-based transactions. The merchant's acquirer or bank pays the customer's bank (the card issuing bank) an interchange fee

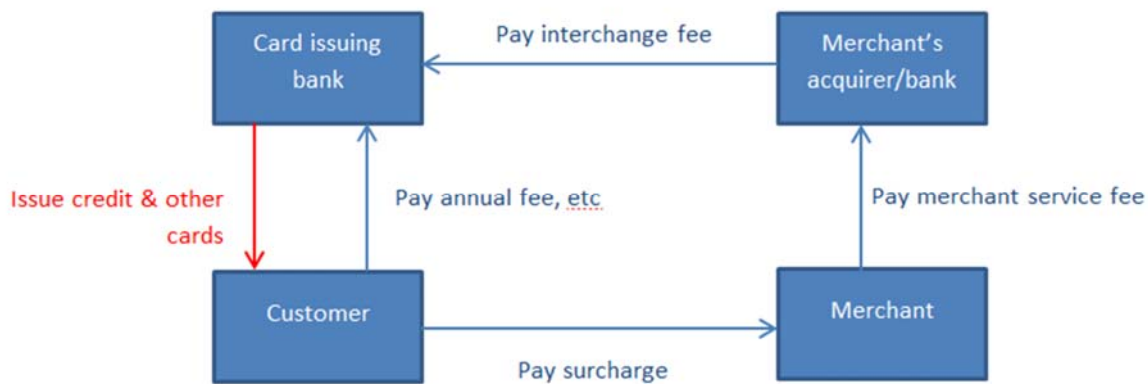
¹⁶¹ RBA 2016, Standard No. 3 of 2016: Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions, May, pp.6-7. RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018); ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2.

¹⁶² RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 15 October 2018); ACCC 2018, Payment surcharges: only charge what it costs you, January, p.2.

for each card transaction. The interchange fee is relevant to surcharging because it eventually forms part of the merchant service fee paid by merchants to their acquirer or bank. On a typical credit card transaction, the interchange fee makes up roughly 60 per cent of the merchant service fee.¹⁶³

Figure F.1 shows a simple illustration of the flow of payments between customers and merchants. Acquirers/banks pass on the interchange fees they are charged to merchants in merchant service fees.¹⁶⁴ Merchants may then pass merchant service fees on to customers in their non-cash payment surcharges.

Figure F.1: Payment system cash flows



Interchange fees are set by card payment schemes such as MasterCard, Visa and American Express. Interchange fees might differ depending on jurisdiction,¹⁶⁵ the type of card used¹⁶⁶ and the type of transaction (e.g. card present or not present, etc.).¹⁶⁷

While payment systems set interchange fees, the RBA places some limits on the interchange fees that may be charged in Australia. The limits are outlined in the RBA's standards for interchange fees on debit and credit cards.¹⁶⁸ These standards set weighted average benchmarks on interchange fees and also put caps on any individual interchange fee (table F.1).

¹⁶³ RBA 2018, A Journey Towards a Near Cashless Payments System: <https://www.rba.gov.au/speeches/2018/sp-gov-2018-11-26.html> (accessed on 13 February 2020).

¹⁶⁴ For eftpos transactions it is the cardholder's bank which pays the merchant's bank an interchange fee.

¹⁶⁵ RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 7.

¹⁶⁶ RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 6.

¹⁶⁷ RBA 2015, Review of Card Payments Regulation: Issues Paper, March, p. 20.

¹⁶⁸ RBA 2016, Standard No.1 of 2016: The setting of interchange fees in the designated credit card schemes and net payments to issuers; Standard No.2 of 2016: The setting of interchange fees in the designated debit and prepaid card schemes and net payments to issuers.

Table F.1: Cap on interchange fees, RBA¹⁶⁹

Type of card	Weighted average benchmark	Cap on individual interchange fee
Credit card	0.5 per cent	Should not exceed 0.8 per cent
Debit card	8 cents	Should not exceed 15 cents if levied as fixed amount or 0.2 per cent if levied as percentage amount

¹⁶⁹ RBA, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html> (accessed on 13 February 2020).

Appendix G: origin of the non-cash payment surcharge

Prior to the Victorian Taxi Industry Inquiry (the inquiry), the non-cash payment surcharge was unregulated. Standard industry practice for taxis was to add a 10 per cent surcharge (excluding GST) for non-cash payments. Following the inquiry the surcharge was regulated and the maximum non-cash payment surcharge amount was set at five per cent (including GST). It has remained at that level to this day.

The surcharge was first introduced for processing paper docket

Prior to the introduction of electronic payments, taxi booking services provided paper-based (docket) charge account services to corporate and government customers. These services charged a 10 per cent service fee on each docket processed. In 1976 A2B Australia began offering a docket based system that could be used in any capital city in Australia. This service also charged a 10 per cent service fee. A2B Australia rebated a share of that service fee to booking service providers. When A2B Australia began processing third-party cards such as American Express, Diners Club and MotorPass in 1982 and bank-issued cards such as Visa, MasterCard and Bankcard in the late 1990s, it extended the 10 per cent service fee to all electronic transactions processed using its facilities.¹⁷⁰ This 10 per cent surcharge became a standard industry practice.

The taxi industry inquiry set the maximum surcharge at five per cent

The surcharge was considered at length by the inquiry.

The inquiry identified a market failure, in that competition between taxi payment processors had failed to lead to reduced costs for customers.¹⁷¹ It recommended the surcharge be regulated.

The inquiry found that the 10 per cent surcharge did not reflect the cost of service provision. Up to five per cent of the fee was rebated to operators and drivers as incentive payments. This showed that the cost of providing the service was not more than five per cent.¹⁷² The inquiry recommended that the surcharge be set at a maximum fee that reflected the resource costs of providing that

¹⁷⁰ Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Draft Report, May 2012, p.252.

¹⁷¹ Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Final Report, September 2012, p.208.

¹⁷² Taxi Industry Inquiry, *Customers First: Service, Safety, Choice*, Draft Report, May 2012, pp 258-9.

service, and recommended the maximum surcharge be set at five per cent of transaction value until subject to a further evaluation by the Essential Services Commission.¹⁷³

The maximum regulated surcharge of five per cent took effect in Victoria in 2014. Any non-cash payment surcharge that exceeds the prescribed amount attracts a penalty under the Commercial Passenger Vehicle Industry Act 2017 (Vic).

Other states have followed Victoria's example on the surcharge

Following the introduction of surcharge regulation in Victoria, action was taken in other jurisdictions to regulate payment surcharges in other Australian states and territories. Currently, only in Tasmania do taxis charge a 10 per cent surcharge for non-cash payments.¹⁷⁴ The other states and territories have a regulated five per cent maximum.

¹⁷³ Taxi Industry Inquiry, Customers First: Service, Safety, Choice, Final Report, September 2012, p.217.

¹⁷⁴ Department of State Growth Transport (accessed on 10 October 2018), <https://www.transport.tas.gov.au/passenger/taxi/fares>

Appendix H: the legislation governing our non-cash payment surcharge role

This appendix includes the key sections of the Acts relevant to the price regulation of the non-cash payment surcharge. The legislation can be found in full online at: <http://www.legislation.vic.gov.au/>

Table H.1: Relevant sections of the Commercial Passenger Vehicle Industry Act 2017

Section detail	
s. 3	<p>Definitions</p> <p>non-cash payment processing device means a device—</p> <ul style="list-style-type: none">(a) used, or intended to be used, to process a non-cash payment transaction; or(b) that enables a non-cash payment transaction to be processed; <p>Examples</p> <p>EFTPOS machine, smartphone, computer tablet.</p> <p>non-cash payment processing service means a service that facilitates the processing of a non-cash payment transaction but does not include a service relating to a fee or charge imposed in respect of the use of a credit card, charge card or debit card levied—</p> <ul style="list-style-type: none">(a) by a participant in a designated payment system within the meaning of the Payment Systems (Regulation) Act 1998 of the Commonwealth and is of a kind covered by a standard in force under section 18 of that Act; or(b) by a person who acts consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia; <p>non-cash payment transaction means the payment, other than by cash, of any amount due in respect of the hiring of a commercial passenger vehicle;</p> <p>prescribed amount of a non-cash payment surcharge is—</p> <ul style="list-style-type: none">(a) the maximum amount of the surcharge as determined by the ESC under Division 3 of Part 6; or(b) until the first such determination, 5% of the amount that would be payable in respect of the hiring to which the surcharge relates if that amount were paid in cash;

s.112 **Meaning of non-cash payment surcharge**

(1) Subject to subsection (2), a non-cash payment surcharge is a fee or charge—

(a) added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction; or

(b) payable by the owner or driver of a commercial passenger vehicle or by all or any of them because the payment of an amount payable in respect of the hiring of the vehicle is made wholly or partly by means of a non-cash payment transaction.

(2) A non-cash payment surcharge does not include a fee or charge that is imposed in respect of the use of a credit card, charge card or debit card—

(a) by a participant in a designated payment system within the meaning of the Payment Systems (Regulation) Act 1998 of the Commonwealth and is of a kind covered by a standard in force under section 18 of that Act; or

(b) by a person consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia.

(3) A fee or charge may be a non-cash payment surcharge irrespective of whether it is—

(a) payable for accepting or processing, or both accepting and processing, payment made by means of a non-cash payment transaction or for any other reason; or

(b) set as a percentage of the amount otherwise payable in respect of the hiring of the commercial passenger vehicle or as a fixed amount or as an amount fixed on a sliding scale of any kind or on any other basis.

s. 113 **Cap on non-cash payment surcharges**

(1) This section applies to a non-cash payment surcharge that—

(a) exceeds the prescribed amount; or

(b) results in the prescribed amount being exceeded in the circumstances set out in subsection (2).

(2) The circumstances are that the surcharge is added to any other such surcharge charged or collected, or to be charged or collected, by the same or any other person in respect of the same hiring of a commercial passenger vehicle, irrespective of whether the surcharges are payable by the same person or by 2 or more persons.

(3) A person must not—

Section detail

(a) impose, whether directly or indirectly, a non-cash payment surcharge to which this section applies; or

(b) directly initiate the collection in the commercial passenger vehicle of a non-cash payment surcharge to which this section applies or of an amount that includes such a surcharge.

Penalty: In the case of an individual, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

Notes

Section 285 (criminal liability of officers of bodies corporate—failure to exercise due diligence (evidential burden of proof)) applies to an offence against this subsection.

(4) A person does not commit an offence against subsection (3) because of a non-cash payment surcharge charged or collected, or to be charged or collected, by another person in respect of the hiring of a commercial passenger vehicle if—

(a) the person presents or points to evidence that suggests a reasonable possibility that the person did not know, and could not reasonably be expected to have known, that the other person had charged or collected, or was to charge or collect, a non-cash payment surcharge in respect of that hiring; and

(b) the contrary is not proved (beyond reasonable doubt) by the prosecution.

(5) The reference in subsection (3) to a person includes—

(a) any person who provided or maintains any equipment (whether or not installed in the commercial passenger vehicle) or any application or software that enabled the non-cash payment transaction to be made; and

(b) any person who manages or administers the whole or any part of a system under which non-cash payment transactions may be made; and

(c) the owner and driver of the commercial passenger vehicle.

s.114 **Offence to enter into certain contracts etc.**

(1) A person, including the owner or driver of the commercial passenger vehicle or a booking service provider, must not—

(a) enter into a contract, arrangement or understanding with any person that has the purpose or effect specified in subsection (2); or

(b) agree to give effect to a contract, arrangement or understanding entered into by any other persons that has that purpose or effect.

Penalty: In the case of an individual, 60 penalty units;

In the case of a body corporate, 300 penalty units.

Section detail

Note

Section 285 (criminal liability of officers of bodies corporate—failure to exercise due diligence (evidential burden of proof)) applies to an offence against this section.

(2) The purpose or effect is directly or indirectly causing a non-cash payment surcharge to which section 113 applies to be paid in respect of a hiring of a commercial passenger vehicle.

s.115 **Civil penalties**

(1) The Supreme Court may order that a person pay, as a debt due to the State, a civil penalty of an amount not exceeding \$1 000 000 for an individual or \$5 000 000 for a body corporate.

(2) The Supreme Court may make an order under subsection (1) if satisfied, on an application made by the regulator, that the person has—

(a) contravened section 113(3); or

(b) attempted to contravene section 113(3); or

(c) aided, abetted, counselled or procured a person to contravene section 113(3); or

(d) induced, or attempted to induce, whether by threats, promises or otherwise, a person to contravene section 113(3); or

(e) been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 113(3); or

(f) conspired with others to contravene section 113(3).

(3) The regulator may make an application under this section at any time within 6 years after the contravention or other conduct covered by subsection (2).

(4) The Supreme Court may relieve a person, other than a body corporate, from liability to a civil penalty in a proceeding under this section if it appears to it that—

(a) the person has, or may have, engaged in conduct in contravention of section 113(3) or conduct referred to in subsection (2)(b), (c), (d), (e) or (f) that relates to a contravention of section 113(3); but

(b) the person acted honestly and reasonably and, having regard to all the circumstances of the case, ought fairly to be excused.

s.116 **Preference must be given to compensation**

The Supreme Court must give preference to making an order for compensation if it considers that—

Section detail

(a) it is appropriate to order a person (the defendant) to pay a civil penalty under section 115(1) in relation to—

(i) a contravention of section 113(3); or

(ii) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) that relates to a contravention of section 113(3); and

(b) it is appropriate to order the defendant to pay compensation under section 120 to a person who has suffered loss or damage because of that contravention or conduct; and

(c) the defendant does not have sufficient financial resources to pay both the civil penalty and the compensation.

s.117 **Interplay between civil penalties and criminal proceedings**

(1) An application cannot be made to the Supreme Court under section 115 in relation to a contravention of section 113(3) if the person has been convicted or acquitted of an offence constituted by conduct that is substantially the same as the conduct to which the application relates.

(2) The Supreme Court must stay a proceeding under section 115 against a person if a criminal proceeding is or has been commenced against the person for an offence constituted by conduct that is substantially the same as the conduct to which the application under that section relates.

(3) A proceeding stayed in accordance with subsection (2) must be dismissed by the Supreme Court if the person is convicted or acquitted of the offence but otherwise may be resumed by it.

(4) A criminal proceeding may be commenced against a person for conduct that is substantially the same as conduct to which an application under section 115 relates or in respect of which an order has been made under that section.

(5) Evidence of information given, or evidence of the production of documents, by a person is not admissible in a proceeding against the person for an offence if—

(a) the person previously gave the evidence or produced the documents in a proceeding against the person under section 115; and

(b) the conduct alleged to constitute the offence is substantially the same as the conduct to which the proceeding under that section related.

(6) Subsection (5) does not apply to a criminal proceeding in respect of the falsity of evidence given in a proceeding under section 115.

s.118 **Non-cash payment surcharge may be recovered as a debt**

A person who has paid a non-cash payment surcharge to which section 113 applies may recover, as a debt in any court of competent jurisdiction, the amount of the excess over the prescribed amount from the person to whom the surcharge was payable.

s.119 **Proceeding for damages**

(1) This section applies if a person suffers loss or damage because of—

(a) conduct engaged in by another person in contravention of section 113(3); or

(b) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 113(3).

(2) The person may recover the amount of the loss or damage in a proceeding commenced against that other person in any court of competent jurisdiction.

(3) A proceeding under subsection (2) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

s.120 **Compensation orders**

(1) This section applies if a person (the injured person) suffers, or is likely to suffer, loss or damage because of—

(a) conduct engaged in by another person in contravention of section 113(3); or

(b) conduct referred to in section 115(2)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 113(3).

(2) The Supreme Court may make any other order or orders that it thinks appropriate against the person who engaged in the conduct on an application made by—

(a) the injured person; or

(b) the regulator on behalf of one or more injured persons.

(3) An order must be an order that the Supreme Court considers will—

(a) compensate the injured person, or any injured person, in whole or in part for the loss or damage; or

(b) prevent or reduce the loss or damage suffered, or likely to be suffered, by the injured person or any injured person.

(4) An application may be made under subsection (2) at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

(5) An application may be made under subsection (2) even if no other proceeding (whether criminal or civil) has been commenced under this Division in relation to the relevant conduct.

Section detail

(6) The regulator must not make an application under subsection (2)(b) on behalf of an injured person who has not consented in writing to the making of the application on their behalf.

s. 121 **Application of Essential Services Commission Act 2001**

(1) For the purposes of the **Essential Services Commission Act 2001**—

- (a) this Division is relevant legislation; and
- (b) the non-cash payment transaction industry is a regulated industry.

(2) If there is any inconsistency between a provision of this Division and a provision of the **Essential Services Commission Act 2001**, the provision of this Division prevails.

s. 122 **Objective of the ESC**

(1) The objective of the ESC in relation to the noncash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge.

(2) In seeking to achieve the objective specified in subsection (1), the ESC must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.

(3) In this section—

reasonable cost includes any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards.

s. 123 **Powers in relation to non-cash payment service regulation**

For the purposes of Part 3 of the Essential Services Commission Act 2001—

- (a) non-cash payment transactions are prescribed services; and
- (b) the maximum amounts of non-cash payment surcharges are prescribed prices.

s. 124 **Exercise of regulatory functions**

(1) The ESC may regulate prescribed prices by determining different prices according to circumstances specified in the determination if it considers it necessary to do so in order for it to comply with section 122(2).

(2) Subsection (1) does not limit section 33(5) of the Essential Services Commission Act 2001.

Section detail

(3) The ESC must make a price determination no later than 12 months after the day on which section 18 of the Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017 comes into operation.

(4) The ESC must complete a review of a price determination no later than 2 years after it is made.

Schedule 2, s.25 **Subject matter for regulations**

Non-cash payment surcharges

25. The keeping by persons who provide services for processing non-cash payment surcharges of records of, or relating to, the following—

- (a) non-cash payment surcharges charged or collected by persons using the services;
- (b) the operation and programming of equipment that enables non-cash payment transactions to be made;
- (c) the retention and storage of information, data and electronic communications relating to non-cash payment surcharges;
- (d) the structure of, setting of and receipt of non-cash payment surcharges;
- (e) commercial arrangements supporting non-cash payment surcharges.

Table H.2: Relevant sections of the Essential Services Commission Act 2001

Section detail

s. 8 (1) **Objective of the Commission**

In performing its functions and exercising its powers, the objective of the Commission is to promote the long term interests of Victorian consumers.

s. 8 (2) Without derogating from subsection (1), in performing its functions and exercising its powers in relation to essential services, the Commission must in seeking to achieve the objective specified in subsection (1) have regard to the price, quality and reliability of essential services.

s. 8A (1) **Matters the Commission must have regard to**

In seeking to achieve the objective specified in section 8, the Commission must have regard to the following matters to the extent that they are relevant in any particular case—

- (a) efficiency in the industry and incentives for long term investment;
- (b) the financial viability of the industry;

Section detail

- (c) the degree of, and scope for, competition within the industry, including countervailing market power and information asymmetries;
 - (d) the relevant health, safety, environmental and social legislation applying to the industry;
 - (e) the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for—
 - (i) consumers and users of products or services (including low income and vulnerable consumers);
 - (ii) regulated entities;
 - (f) consistency in regulation between States and on a national basis;
 - (g) any matters specified in the empowering instrument.
- s. 8A (2) Without derogating from section 8 or subsection (1), the Commission must also when performing its functions and exercising its powers in relation to a regulated industry do so in a manner that the Commission considers best achieves any objectives specified in the empowering instrument.

S.32 **Price Regulation**

S.32(1) The Commission may regulate prescribed prices for or in respect of prescribed goods and services supplied by or within a regulated industry.

S.32(2) In this section –

prescribed goods and services means any goods or services made, produced or supplied by or within a regulated industry which goods or services are specified in the empowering instrument as being goods or services in respect of which the Commission has power to regulate prices;

prescribed price means the price or price-range however designated for the supply or sale of any goods or services by or within a regulated industry or particular factors used in price-fixing or terms and conditions relating to the price at which particular goods or services are supplied or sold, being a price, price-range, factor or term and condition specified in the empowering instrument as being a price, price-range, factor or term and condition which the Commission has power to regulate.

S.33 **Price determinations**

S.33(1) This section is subject to anything to the contrary in the empowering instrument specifying the prescribed prices or prescribed goods and services in respect of which the Commission is exercising its power of regulation.

S.33(2) In making a price determination, the Commission must adopt an approach and methodology which the Commission considers will best meet the objectives specified in this Act and any relevant legislation.

s. 33(3) In making a determination under this section, the Commission must have regard to—

Section detail

- (a) the particular circumstances of the regulated industry and the prescribed goods and services for which the determination is being made;
 - (b) the efficient costs of producing or supplying regulated goods or services and of complying with relevant legislation and relevant health, safety, environmental and social legislation applying to the regulated industry;
 - (c) the return on assets in the regulated industry;
 - (d) any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;
 - (e) any other factors that the Commission considers relevant.
- s. 33(4) In making a determination under this section, the Commission must ensure that—
- (a) the expected costs of the proposed regulation do not exceed the expected benefits; and
 - (b) the determination takes into account and clearly articulates any trade-offs between costs and service standards
- s. 33(5) A price determination by the Commission may regulate a prescribed price for prescribed goods and services in any manner the Commission considers appropriate.
- s. 33(6) Without limiting the generality of subsection (5), the manner may include—
- (a) fixing the price or the rate of increase or decrease in the price;
 - (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in the maximum price;
 - (c) fixing an average price for specified goods or services or an average rate of increase or decrease in the average price;
 - (d) specifying pricing policies or principles;
 - (e) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
 - (f) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the rate or supply of the goods or services;
 - (g) fixing a maximum average revenue or maximum rate of increase or minimum rate of decrease in the maximum average revenue in relation to specified goods or services;
 - (h) monitoring the price levels of specified goods and services.

Collection and use of information

s.36 **Application of this Part**

Subject to any provisions to the contrary in any relevant legislation, this Part applies to or in respect of any information or document that is provided to the Commission.

S.36A **Commission must have regard to certain matters**

Section detail

In exercising the powers conferred on the Commission under this Part, the Commission must have regard to—

- (a) the relevance of the information or document; and
- (b) the estimated compliance costs.

S.37 **General power to obtain information and documents**

(1) If the Commission considers that it is necessary to do so for the purposes of performing its functions or exercising its powers, the Commission may require a person that the Commission has reason to believe has any relevant information or document to provide that information or document to the Commission.

(1A) For the purposes of subsection (1), the Commission may require the person to appear before the Commission to provide the information or document.

(2) A requirement must be made in a written notice specifying—

- (a) the information or document required; and
- (b) the period of time within which the requirement must be complied with; and
- (c) the form in which the information or copy of the document is to be given to the Commission; and
- (ca) whether or not the person is required to appear before the Commission; and
- (d) that the requirement is made under this section.

(3) The notice must include a copy of this Part.

(4) A person who without lawful excuse fails to comply with any requirement made under this section in a notice given to the person is guilty of an offence.

Penalty: 120 penalty units.

(5) It is a lawful excuse for the purposes of subsection (4) that compliance may tend to incriminate the person or make the person liable to a penalty for any other offence.

(6) A person must not, in purported compliance with a requirement, knowingly give the Commission information that is false or misleading.

Penalty: 120 penalty units or imprisonment for 6 months.

(7) A person must not—

- (a) threaten, intimidate or coerce another person; or
- (b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage— because that other person complied, or intends to comply, with a requirement made under this section.

Penalty: 120 penalty units.

(8) A person is not liable in any way for any loss, damage or injury suffered by another person because of the giving in good faith of any information or a document to the Commission under this section.

S.37A **Provision of information relating to regulated entities**

(1) A regulated entity must provide information relating to the regulated entity requested by the Commission by written notice to the Commission in the manner and form specified in the notice.

(2) If information relating to a regulated entity is held by a third party, the Commission may require the regulated entity to enter into an arrangement with the third party under which the third party is to provide the information to the Commission.

(3) The Commission may specify the kind or class of information which a regulated entity must maintain for the purposes of this section in a Code of Practice.

S.38 **Restriction on disclosure of confidential information**

(1) This section applies if—

(a) information or a document is given to the Commission under—

(i) section 37, 37A or section 51 before its expiry under section 47 on 31 December 2007; or

Note

Part 6 of the **Essential Services Commission Act 2001**, as originally created included sections 47 and 51. Section 47, as amended by section 26 of the **Energy legislation (Amendment) Act, 2004** provided for the expiry of Part 6 on 31 December 2007.

(ii) section 212E of the **Accident Towing Services Act 2007**; and

(b) at the time the information or document is given, the person giving it states that it is of a confidential or commercially-sensitive nature.

(1A) Before the Commission makes a decision under subsection (2), the Commission must—

(a) give the person giving the information or document an opportunity to make a submission to the Commission specifying—

(i) why the information or document is of a confidential or commercially sensitive nature; and

(ii) the detriment that would be caused by the disclosure of the information or document; and

(b) consider any submission made by that person.

(2) The Commission must not disclose the information or the contents of the document to any person unless—

(a) the Commission is of the opinion—

(i) that the disclosure of the information or document would not cause detriment to the person supplying it; or

(ii) that although the disclosure of the information or document would cause detriment to the person supplying it, the public benefit in disclosing it outweighs that detriment; and

Section detail

(b) the Commission is of the opinion, in relation to any other person who is aware of the information or the contents of the document and who might be detrimentally affected by the disclosure—

(i) that the disclosure of the information or document would not cause detriment to that person; or

(ii) that although the disclosure of the information or document would cause detriment to that person, the public benefit in disclosing it outweighs that detriment; and

(c) the Commission gives the person who supplied the information or document a written notice—

(i) stating that the Commission wishes to disclose the information or contents of the document, specifying the nature of the intended disclosure and setting out detailed reasons why the Commission wishes to make the disclosure; and

(ii) stating that the Commission is of the opinion required by paragraph (a) and setting out detailed reasons why it is of that opinion; and

(iii) setting out a copy of this section and section 55, and as the case requires, section 45 of this Act or section 212F of the **Accident Towing Services Act 2007**; and

(d) if the Commission is aware that the person who supplied the information or document in turn received the information or document from another person and is aware of that other person's identity and address, the Commission gives that other person a written notice—

(i) containing the details required by paragraph (c); and

(ii) stating that the Commission is of the opinion required by paragraph (b) in relation to him, her or it and setting out detailed reasons why it is of that opinion; and

(e) no application is made to VCAT in respect of any notice given under paragraph (c) or (d) within the time permitted by section 55(3).

Penalty: 120 penalty units.

(3) Subsection (2) does not prevent the Commission—

(a) from disclosing information or the contents of a document to—

(i) an employee employed under section 24(1); or

(ii) a member of staff referred to in section 24(2); or

(iii) a consultant engaged under section 25; or

(iv) a member of a Division, committee or panel acting under a delegation under section 26; or

(b) from using information or a document for the purposes of an inquiry or investigation; or

(c) from disclosing information or the contents of a document to the Minister in a report prepared in the form required by section 45(2) of this Act or section 212F(2) of the **Accident Towing Services Act 2007**; or

(d) from supplying the information or document to VCAT for the purposes of a proceeding before VCAT under this Act in relation to the information or document.

(4) If an application is made under section 55 and the application is withdrawn or the proceeding on the application is dismissed by VCAT, the Commission may disclose any information, or the contents of any document, that was the subject of the application in the manner set out in the notice given under subsection (2)(c)

Section detail

(4A) If an application is made under section 55 and VCAT sets aside the requirement and makes a decision in accordance with section 56(b)(ii)(B), the Commission may disclose anything that VCAT permits it to disclose in the manner specified by VCAT.

(5) For the purposes of this section, the disclosure of anything that is already in the public domain at the time the Commission wishes to disclose it cannot cause detriment to any person referred to in subsection (2)(a) or (2)(b).

S.39 **Commission must not disclose exempt freedom of information documents**

(1) The Commission must not disclose to any person any document that it has obtained from any agency (as defined in the **Freedom of Information Act 1982**) or Minister that is an exempt document under the **Freedom of Information Act 1982** in the hands of the agency or Minister.

(2) Subsection (1) does not prevent the Commission from doing anything specified in section 38(3).

Appendix I: records to be kept on non-cash payment surcharges

Under the Commercial Passenger Vehicle Industry Act 2017 (Vic)¹⁷⁵ and the Commercial Passenger Vehicle Industry Regulations 2018 (Vic), taxi payment processors are required to keep records.

Regulation 36 of the Commercial Passenger Vehicle Industry Regulations 2018 sets out in detail the records to be kept for non-cash payment surcharges (see table I.1). The records must be kept for a period of at least three years.

If you have questions in relation to these requirements, you should contact Commercial Passenger Vehicles Victoria, which is responsible for the implementation of the Commercial Passenger Vehicle Industry Regulations 2018.

Table I.1: Records to be kept for non-cash payment surcharges

Regulation detail	
r. 36	<p>Records to be kept for non-cash payment surcharges</p> <p>(1) This regulation applies to a person who provides a relevant service that facilitates the processing of a non-cash payment transaction that is a payment of an amount that includes a non-cash payment surcharge (a relevant transaction).</p> <p>(2) A person to whom this regulation applies must keep records sufficient to identify—</p> <p>(a) in respect of each relevant transaction facilitated by the relevant service—</p> <ul style="list-style-type: none">(i) the amount of the non-cash payment surcharge; and(ii) the amount that would have been payable by the hirer in respect of the hiring to which the transaction relates if the hiring had been paid for in cash; and(iii) the date on which the transaction was processed; and <p>(b) in respect of each day on which the relevant service facilitated the processing of a relevant transaction—</p> <ul style="list-style-type: none">(i) the total amount of the non-cash payment surcharges that were added to the relevant transactions on that day; and(ii) the total amount that would have been payable if the relevant transactions on that day were instead paid for in cash; and

¹⁷⁵ Commercial Passenger Vehicle Industry Act 2017, schedule 2, section 25.

Regulation detail

- (c) in respect of each non-cash payment processing device supplied by the person or used to process a relevant transaction—
- (i) if the device is programmed to add a non-cash payment surcharge that is a fixed amount, the amount of that surcharge; and
 - (ii) if the device is programmed to add a non-cash payment surcharge that is not a fixed amount, the basis on which the amount of the surcharge is determined; and
 - (iii) any day on which the programming of the device is set or changed—
 - (A) to make the device add a non-cash payment surcharge; or
 - (B) to change the amount the device adds as a non-cash payment surcharge; and
 - (iv) each commercial passenger vehicle in relation to which the device is used; and
 - (v) the periods during which the device is used in relation to each commercial passenger vehicle; and
 - (vi) if the device is supplied by the person—
 - (A) each person to whom the device is supplied; and
 - (B) the period during which the device is supplied to that person.

(3) A person to whom this regulation applies must keep the records required under subregulation (2) for a period of at least 3 years after the last entries in the records are made.

Penalty: 10 penalty units.

(4) In this regulation — relevant service means a non-cash payment processing service within the meaning of section 3(1) of the Act.

Note

The Electronic Transactions (Victoria) Act 2000 provides that a requirement to keep written records is taken to have been met if the person records information in electronic form.

Appendix J: Detailed list of matters raised by stakeholders

We received five submissions from stakeholders on our further draft decision. All of these submissions were from taxi payment processors. We considered all submissions made, including those made on our consultation paper and draft decision. The following table provides a summary of the matters raised by stakeholders in response to the further draft decision paper we released in November 2019 on the maximum surcharge for taxis¹⁷⁶, and our responses. We note that the public version of this document does not contain matters that were raised in confidence, or our responses to those matters.

Table J.1: Summary of stakeholder submissions and our response

Theme	Submission summary	ESC response
Level of maximum surcharge	<ul style="list-style-type: none"> a four per cent maximum surcharge is too low¹⁷⁷ [REDACTED] [REDACTED] 	<p>Our final decision is to provide for a maximum surcharge of six per cent for Cabcharge payment instruments (or any other new commercial passenger vehicle specific payment instruments) and a maximum surcharge of four per cent for all other non-cash payment methods.</p> <p>We consider this decision best meets our legislative objectives and requirements.</p> <p>See our summary chapter for more detail.</p>
Viability of the taxi payments industry	<ul style="list-style-type: none"> A reduction in profit margin will not allow funds for the replacement of EFTPOS terminals after the 3G shutdown date. This will result in 	<p>Telstra has announced that it will close the 3G network in June 2024. This will provide sufficient time for each processor to replace its payment terminal assets without having to dispose of assets before the end of their accounting lives.</p>

¹⁷⁶ ESC, Taxi non-cash payment surcharge review 2019: further draft decision, 11 November 2019.

¹⁷⁷ GM Cabs, submission received 9 January 2020

¹⁷⁸ [REDACTED]

<p>discontinued operations in Victoria¹⁷⁹</p>	<p>Our bottom-up cost assessment includes an allowance for the cost of assets through the depreciation and return on capital building blocks.</p> <p>See Appendix B for more detail.</p>
<ul style="list-style-type: none"> • If the commission determines the maximum surcharge using the average actual costs of taxi payment processors instead of the highest actual cost ... how [is] competition in the industry not decreased when the taxi payment processors with costs above average cannot operate profitably?¹⁸⁰ • Can the commission explain how its use of average costs will not lessen competition over time?¹⁸¹ 	<p>We consider that a four per cent maximum surcharge will allow taxi payment processors to recover the reasonable cost of accepting and processing non-cash payments (including a reasonable return on their investment).</p> <p>We used benchmarking and bottom-up cost assessments to inform our view on the reasonable cost of processing non-cash payments. In making our determination, we also had regard to the degree of, and scope for, competition within the taxi payments industry.</p> <p>Our bottom-up cost assessment, which analyses taxi payment processors' actual costs, shows that the reasonable cost of processing non-cash payments for taxi payment processors ranged between 3.5 per cent and 3.9 per cent of fares processed. Our benchmarking assessment indicates that taxi payment processors should be able to accept and process non-cash payments at a surcharge of between 1.9 per cent and 3.4 per cent.</p> <p>We expect that taxi payment processors will remain competitive and be able to offer services in the taxi payments industry with a maximum surcharge of four per cent. So our decision has had regard to the viability of and competition in the industry.</p>

¹⁷⁹ GM Cabs, submission received 9 January 2020

¹⁸⁰ CabFare, submission received 30 January 2020, p.2

¹⁸¹ CabFare, submission received 30 January 2020, p.2

Some taxi payment processors did submit that they have actual costs greater than four per cent. We identified a number of areas where the costs submitted by those taxi payment processors were likely to be higher than the reasonable cost of processing transactions. As a result, we do not consider that their costs are reasonable insofar as they may have included costs not incurred with processing transactions and further there is scope for these firms to reduce their costs to a reasonable level. It does not promote efficiency to set a maximum surcharge that would provide for firms with unreasonable costs to recover those costs.

For more detail on why we have set the maximum surcharge at four per cent see our summary chapter, chapter two, chapter three, and Appendices B and C.

Bottom up cost assessment

- Lost property – Passengers who lose property in taxis for which they have paid the fare on a GM Cabs EFTPOS terminal will always contact our office for assistance. This is unavoidable and a cost of conducting business. Since we do not earn taxi fares, we cannot recover the administrative costs of providing these services to the travelling public.¹⁸²

We have addressed this issue in Appendix B.

We do not consider this to be a cost of providing non-cash payment services. To the extent that GM Cabs receives lost property calls it can pass these inquiries on to the relevant taxi booking service provider (or operator if the vehicle in question is unaffiliated).

Economies of scope

- Is this three per cent [bottom up cost assessment of Live eftpos] based solely on transactions from taxis or is this cost based from Live

The three per cent amount that CabFare refers to appears to relate to our benchmarking analysis. This amount is for a small business with similar revenues to a taxi using a Live eftpos terminal.

¹⁸² GM Cabs, submission received 9 January 2020

eftpos' wider market footprint in many industries¹⁸³

Our bottom-up cost assessment for Live Taxi, using cost data provided in response to our information notice, to the extent possible, included only the costs of processing taxi non-cash payments.

Live group may benefit from economies of scope (cost efficiencies) due to operating in additional markets for payment processing.

Our bottom-up cost analysis for taxi payment processors includes the actual costs they incur for merchant service fees.

Our bottom-up cost analysis shows that taxi payment processors only processing commercial passenger vehicle fares are able to recover the reasonable cost of processing non-cash payments under a maximum surcharge of four per cent.

Use of multiple surcharges

- The higher surcharge for Cabcharge provides them with a significant competitive advantage¹⁸⁴
¹⁸⁵

We have addressed this issue in chapter 4.

We do not think the higher surcharge for Cabcharge payment instruments will provide a competitive advantage because the additional revenue that may be recovered through the surcharge only allows the recovery of additional issuing costs, which non-Cabcharge payment instruments do not incur. Both surcharges are based on reasonable costs so we do not expect that the differential rates will provide a competitive advantage.

- What benchmarking has been undertaken to justify a surcharge premium of two per cent when A2B

We did not identify any benchmark services that are directly comparable to Cabcharge payment instruments. For more detail see chapter 3.

¹⁸³ CabFare, submission received 30 January 2020, p. 1

¹⁸⁴ [REDACTED]

¹⁸⁵ GM Cabs, submission received 9 January 2020

is a Card Issuer of its own payment instruments and does not incur any merchant service fees costs on this instrument?¹⁸⁶

To form a decision on the maximum surcharge for commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments), we performed a bottom-up cost assessment for the part of A2B Australia's business that issues and processes Cabcharge payment instruments.

For more detail see Appendix B.

- How does a one size fits all regulated non-cash surcharge ensure that the commission meet its obligations under the following sections of the ESC Act 2001¹⁸⁷

Our final decision is that there will be two maximum surcharges: one for commercial passenger vehicle specific payment instruments (such as Cabcharge payment instruments) and one for all other non-cash payment methods. The costs associated with these different payment types justified a different surcharge being specified for each type. The information provided to us did not indicate that there were sufficient differences between the other non-cash payment types that would support different surcharges for these payment types.

We consider our final decision best meets our legislative objectives and requirements.

If we were to have a separate maximum surcharge for all payment methods there may be confusion. Individuals can use a wide range of cards and we consider that it is simpler and will lead to fewer disputes if there is one maximum surcharge for commercial passenger vehicle specific payment instruments, and one maximum surcharge for all of other non-cash payment methods.

For more details see the summary chapter and chapter 4 and 5.

¹⁸⁶ CabFare, submission received 30 January 2020, p.3

¹⁸⁷ CabFare, submission received 30 January 2020, p.1

- Why has the commission not set a separate maximum surcharge for payment instruments that incur high Merchant Services Fees as like the Cabcharge product, they are used by “employees of corporations and government agencies which have corporate accounts”?¹⁸⁸
- Why is the higher surcharge not applied to all cards used by “employees of corporations and government agencies which have corporate accounts”?¹⁸⁹

We have set a maximum surcharge of six per cent for commercial passenger vehicle specific payment instruments. This is available to any taxi payment processor who issues its own payment instrument.

The additional two per cent is to allow the recovery of issuing costs related to the instrument (for example card printing, account management, and working capital to fund account holder credit) which are not incurred by taxi payment processors for other payment methods used by employees of corporations and government agencies with corporate accounts.

An allowance to recover merchant service fees (including for other third party charge cards) has been included in the four per cent maximum surcharge.

See chapter four for further details.

- Why has the commission not set separate surcharges for each payment service provider?¹⁹⁰

We do not consider that having different maximum surcharges for each payment processor would best meet our legislative objectives. Setting separate surcharges for each taxi payment processor does not provide any incentive for them to find cost efficiencies within their business. In fact, setting individual surcharges could create an incentive for taxi payment processors to incur large costs on driver incentives to increase their market share, knowing they will be recovered from customers through the surcharge.

Implementation date

[REDACTED]

An implementation date of 1 July 2020 is sufficient time to allow the industry to adjust, and for taxi payment processors to update the software on

¹⁸⁸ CabFare, submission received 30 January 2020, p.3

¹⁸⁹ CabFare, submission received 30 January 2020, p.3

¹⁹⁰ CabFare, submission received 30 January 2020, p.3

[Redacted text]

their payment terminals and back-end systems.

Writing the software updates should not require significant time but applying the updates to each terminal could be time consuming. Payment processors that do not have the ability to update their terminals' software wirelessly would require their drivers and operators to bring their terminals to their service centres or agents. However, previous changes in taxi fares show that it is possible to do such updates to taxi meters (that in the past had to be taken of the road to update fares) within a period of three months.

The taxi payments industry has already had notice that some changes may be made to the maximum surcharge since December 2018 when we released our consultation paper. It has also been aware that we might reduce the maximum surcharge since May last year.

MPTP and Cab charge

- Government's contract with Cabcharge to provide the multi-purpose taxi program (MPTP) effectively creates a Cabcharge monopoly, and surcharges provide an additional revenue stream enabling greater return on investment¹⁹³

In making our determination, we have had regard to the degree of, and scope for, competition within the industry. However, we do not administer the MPTP program. The MPTP program is administered by CPVV.

- [Redacted text]

[Redacted text] MPTP related payments

¹⁹¹ [Redacted text]

[Redacted text]

¹⁹³ GM Cabs, submission received 9 January 2020

[REDACTED]

should be recovered through this agreement.

In any event, we have included the revenues and costs associated with accepting and processing MPTP payments in our bottom-up cost assessment of A2B Australia's costs.

[REDACTED]

[REDACTED]

Our bottom-up cost assessment shows that a maximum surcharge of four per cent on third party payment instruments and a maximum surcharge of six per cent on Cabcharge payment instruments would ensure that A2B Australia is able to recover the reasonable cost of accepting and processing non-cash payment transactions (including MPTP transactions).

We note that A2B Australia is not the only booking service provider processing MPTP subsidies and the Victorian Government is currently seeking expressions of interest from other booking service providers that are interested in providing MPTP services.¹⁹⁶

194 [REDACTED]

195 [REDACTED]

¹⁹⁶ CPVV, Interested in providing Multi Purpose Taxi Program services?, available at: <https://cpv.vic.gov.au/booking-service-providers/interested-in-providing-multi-purpose-taxi-program-services> [last accessed 11 March 2020].

ESC approach and methodology

- How does the methodology accommodate merchant service fees, which are not a single universal fee level common across all providers and align this with the provisions of s.122 of the CVP Act 2017¹⁹⁷

We have considered all of our statutory objectives and the matters we must have regard to and ensure in legislation in reaching our decision to reduce the maximum surcharge to four per cent. In making this determination we adopted an approach and methodology that we consider best meets our legislative objectives.

Our bottom-up cost analysis for taxi payment processors has regard to the actual costs they incur for merchant service fees.

Based on our analysis, we consider that a maximum surcharge of four per cent allows taxi payment processors to recover the reasonable cost of processing non-cash payments, including the merchant service fees incurred by taxi payment processors. Therefore, to the extent that merchant service fees are different or higher than in other industries, we have had regard to this issue.

- How is the commission's approach [decision based on average actual cost instead of actual highest cost] accommodated under the Essentials Services Commission Act 2001 or the CPVI Act¹⁹⁸

Under the ESC Act, in performing our functions and exercising our powers, our objective is to promote the long term interests of Victorian consumers. In seeking to achieve this objective, we must have regard to the price, quality and reliability of essential services.

Under the CPVI Act, our objective in relation to the non-cash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge. In seeking to achieve this objective, we must ensure that persons facilitating the making of non-cash payment

¹⁹⁷ CabFare, submission received 30 January 2020, p.1

¹⁹⁸ CabFare, submission received 30 January 2020, p. 2

transactions are able to recover the reasonable cost of accepting and processing such transactions.

We have set the maximum surcharge at a level that will allow taxi payment processors to recover the reasonable cost of accepting and processing non-cash payment transactions. In some cases, reasonable costs may be higher or lower than a taxi payment processors' actual costs. A firm incurring a cost does not, in itself, make a cost reasonable.

From the analysis we have undertaken, using the upper bound of taxi payment processors' actual costs would allow taxi payment processors to recover more than the reasonable cost of processing non-cash payments. We do not consider that this approach would best achieve our legislative objectives of promoting efficiency in the non-cash payment transaction industry, and promoting the long term interests of Victorian consumers.

- The commission has afforded undue weight to 'community expectations' in making its further draft decision¹⁹⁹
- Section 121(2) specifically directs that the ESC is to place the requirements of the CPVI Act 2017 in determining the surcharge level over the requirements of the ESC Act? (i.e. The requirements of the provider of non-cash payment services in taxis are to be given greater weight in the ESC's

Under section 8 of the ESC Act the objective of the commission is to promote the long term interests of Victorian consumers. We have had regard to community expectations in considering how best to meet this objective.

Section 121(2) of the CPVI Act states: "If there is any inconsistency between a provision of this Division and a provision of the Essential Services Commission Act 2001, the provision of this Division prevails."

We do not consider there to be an inconsistency between our objectives and obligations under the ESC Act and the CPVI Act.

¹⁹⁹ CabFare, submission received 30 January 2020, p.2

determination than those of a consumer under the ESC Act)²⁰⁰

Our final decision to set the maximum surcharge at four per cent meets the statutory objectives and requirements outlined in both the ESC Act and the CPVI Act. In particular, we consider that our decision best meets our legislative objectives of promoting the long term interests of Victorian consumers and promoting efficiency in the non-cash payment transaction industry, while at the same time ensuring that persons facilitating the making of non-cash payment transactions are able to recover the **reasonable cost** of accepting and processing such transactions.

As mentioned above, A firm incurring a cost does not, in itself, make a cost reasonable.

Other

- Does the commission agree that A2B is the only taxi payment processor that is a full service provider to taxi drivers, operators and networks in the state of Victoria?²⁰¹

Through an agreement with CPVV, Cabcharge is currently one of only two processors of multi-purpose taxi program (MPTP) services in taxis in Victoria (noting that in addition to this another booking service provider is also providing MPTP services).

Under existing legislation, the commission has the power to set the maximum amounts of non-cash payment surcharges. We do not administer the MPTP program.

We note that if a business wants to process MPTP subsidies, it can approach CPVV.²⁰²

Other taxi payment processors could also develop a commercial passenger vehicle specific payment instrument to compete with Cabcharge (and charge a surcharge of six per cent on it) if

²⁰⁰ CabFare, submission received 30 January 2020, p.2

²⁰¹ CabFare, submission received 30 January 2020, p.2

²⁰² CPVV, Interested in providing Multi Purpose Taxi Program services?, available at: <https://cpv.vic.gov.au/booking-service-providers/interested-in-providing-multi-purpose-taxi-program-services> [last accessed 11 March 2020].

	they thought it would be commercially advantageous.
<ul style="list-style-type: none"> How does the commission's determination meet its obligations under the Essential Services Commission Act 2001?²⁰³ 	See Appendix D.
<ul style="list-style-type: none"> [REDACTED] 	See appendices D, E and H.
<ul style="list-style-type: none"> [REDACTED] 	<p>Taxi payment processors are in possession of more detailed information on the impact of the CPVI Act reforms on non-cash payment transactions and the non-cash payment transaction industry than is likely to have been available to the legislative council inquiry.</p> <p>Taxi payment processors have provided us with data on their operations (i.e., costs and revenues) covering both the pre and post reform periods. Given our existing statutory role and obligations it is appropriate that we make a decision at the completion of our review based on the data provided. We also note that the Legislative Council's inquiry is primarily focused on taxi licensing reforms and that it made no recommendations on regulation of the surcharge.²⁰⁶</p>

²⁰³ CabFare, submission received 30 January 2020, p.2

²⁰⁴ [REDACTED]

²⁰⁵ [REDACTED]

²⁰⁶ Parliament of Victoria, *Inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms*, pp. xiii to xiv available at: https://www.parliament.vic.gov.au/images/stories/committees/SCEI/CPV/Report/LCEIC_59-01_CPV_Act_2017_reforms.pdf [last accessed 5 March 2020].

• [REDACTED]

An extensive consultation and information gathering process underlies our final decision.

We released our consultation paper in December 2018, our draft decision in May 2019, and our further draft decision in November 2019. We have accepted submissions on each of these papers.

Our benchmarking model is available on our website. Our bottom-up cost assessment is based on an analysis of taxi payment processors' actual costs. On A2B Australia's request we also provided it with the bottom-up cost models we used in our draft decision (June 2019) and our further draft decision (November 2019).

A2B Australia, and indeed all taxi payment processors, have been given many opportunities to provide information and views in the course of this review. To the extent that they believe assumptions and benchmarks in our further draft decision are inappropriate, misinformed, incomplete or factually incorrect we would expect them to identify those issues in written submissions as part of our public consultation process.

[REDACTED]

[REDACTED]

207 [REDACTED]

[Redacted]

- [Redacted]

We have addressed this issue in chapter four on pricing structures.

Glossary

Term	Definition
A2B Australia	<p>A2B Australia is an Australian company listed on the ASX specialising in personal transport services and digital payment software. Its clients include corporate clients, passengers, drivers and booking service providers.</p> <p>A2B Australia also owns and operates 13cabs, Australia's largest booking service provider, which supports over 9000 taxis across Australia.</p> <p>A2B Australia was formerly known as Cabcharge Australia.</p>
Australian Competition and Consumer Commission	<p>The ACCC is an independent Commonwealth statutory authority whose role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation.</p> <p>The ACCC is responsible for enforcing the ban on excessive surcharging on credit, debit and prepaid card payments, under the Competition and Consumer Act 2010.</p>
Acquirer	An institution that provides a merchant with facilities to accept card payments.
Booked services	Booked services are trips booked via an application, or over the phone or website.
Booking service provider	A person, company or association who provides a service that reserves CPVs to transport passengers at a certain time, departure point, and destination. Previously called network service provider.
Cardholder	Individual who owns and uses a card in paying for goods and services. In the supply chain, a cardholder is the consumer.
Commercial Passenger Vehicle (CPV)	Any motor vehicle used or intended to be used for carrying passengers for hire or reward, excluding a bus used to provide a bus service.
Commercial Passenger Vehicles Victoria	Commercial Passenger Vehicles Victoria, formerly the Taxi Services Commission, is the new regulator of the commercial passenger vehicle industry.
Charge back	This is when the acquirer removes/holds the funds of a disputed transaction. For example, a

	merchant makes a sale of \$20, one month later the customer disputes the transaction and claims the credit card was stolen. The acquirer will remove the \$20 from the merchant's account and apply a charge back fee. A charge back fee is usually charged at a premium.
Charge card	It is a card whose holder has been granted a non-revolving credit line enabling the cardholder to make purchases and possibly make cash advances. A charge card does not offer extended credit; the full amount of any debt incurred must be settled at the end of a specified period.
Clearing	The process of transmitting, reconciling and in some cases confirming payment instructions prior to settlement.
Credit card	It is a card whose holder has been granted a revolving credit line enabling the cardholder to make purchases and/or cash advances up to a pre-arranged limit. The credit granted can be settled in full by the end of a specified period or in part, with the balance taken as extended credit. Interest may be charged on the transaction amounts from the date of each transaction or only on the extended credit where the credit granted has not been settled in full.
Debit card	Debit card is a card that enables the holder to access funds in a deposit account at an authorised deposit-taking institution.
Direct debit	A pre-authorised debit on the payer's (cardholder) bank account initiated by the recipient (merchant).
eftpos	Electronic funds transfer at point of sale. The eftpos system is a domestic debit card system managed by eftpos Payments Australia Limited.
Financial institution	A company whose primary function is to intermediate between lenders and borrowers in the economy.
Interchange fee	A fee paid between card issuers and acquirers when cardholders make transactions.
Issuer	An institution that provides its customers with debit or credit cards.
Meter	A mechanical, electrical or electronic device that calculates, records or displays information about fares and charges for the provision of unbooked commercial passenger vehicle services. Commercial Passenger Vehicles Victoria is

	responsible for specifying the functional requirements of fare devices.
Merchant	Person or business that accepts a card for payment for goods or services.
Merchant service fee	A transaction-based fee charged to a merchant by an acquirer for acquiring, or by a payment processor for arranging the acquisition of, one or more types of card transactions from that merchant.
Multi Purpose Taxi Program (MPTP)	A government program that subsidises taxi fares for people with severe and permanent disabilities. MPTP members receive a 50 per cent subsidy on taxi fares up to a maximum of \$60 per trip and \$2180 per year. Some MPTP members, for example those using wheelchairs, are exempt from the annual cap.
mPOS terminal	A payment terminal which connects to a smartphone or tablet to process non-cash payments.
Non-cash payment surcharge	<p>A non-cash payment surcharge is a fee or charge:</p> <ul style="list-style-type: none"> • added to the amount otherwise payable by the hirer in respect of the hiring of a commercial passenger vehicle because the payment of the amount otherwise payable is made wholly or partly by means of a non-cash payment transaction; or • payable by the owner or driver of a commercial passenger vehicle or by all or any of them because the payment of an amount payable in respect of the hiring of the vehicle is made wholly or partly by means of a non-cash payment transaction.
Payment instrument	Payment instruments are methods which customers use to make payments or transmit money. Frequently used payment instruments include cash, cards, cheques and electronic funds transfers.
Payment processor	An entity that is not a related entity of the merchant that provides services and/or equipment to the merchant in connection with, the acceptance by that merchant of cards for payment for goods or services.

Payment terminal	<p>Refers to the terminal or facility provided by banks to merchants to enable the latter to accept payments by cards.</p> <p>In the taxi payments industry, taxi payment processors supply the payment terminal to drivers, booking service providers or taxi operators.</p>
Payment system	<p>Refers to arrangements which allow consumers, businesses and other organisations to transfer funds usually held in an account at a financial institution to one another. It includes payment instruments like cash, cards, cheques and electronic fund transfers which customers use to make payments, and the unseen arrangements that ensure funds move from accounts at one financial institution to another.</p>
Price determination	<p>A price determination is the legislative instrument we use to set prescribed prices for prescribed goods and services supplied by or within a regulated industry.</p>
Reserve Bank of Australia	<p>The RBA is Australia's central bank. It determines and implements monetary policy, fosters financial stability, undertakes a range of activities in financial markets, acts as a banker to the Australian Government, issues Australia's banknotes and has policy, supervisory and operational roles in the payments system.</p> <p>The RBA sets interchange fees in designated debit, prepaid and credit card schemes. It also regulates merchant surcharging for credit, debit and prepaid card transactions in Australia.</p>
Rideshare services	<p>Booked commercial passenger vehicle services that use the driver's personal vehicle to provide a transport service. These services are offered to passengers through an accredited booking service: generally a smartphone application.</p>
Scheme (or card scheme)	<p>Under the RBA's standards, scheme refers to the following designated payment systems:</p> <ul style="list-style-type: none"> • MasterCard system • VISA system • American Express Companion Card system • Visa Debit system • Debit MasterCard system • eftpos system

	<ul style="list-style-type: none"> • eftpos Prepaid system • MasterCard Prepaid system • Visa Prepaid system.
Taxi	Taxis are commercial passenger vehicles that provide booked and unbooked services.
Taxi network	A provider of taxi booking and dispatch services, connecting passengers with taxi drivers through a booking service. Also referred to as booking service provider or network service provider.
The Commission	<p>The Essential Services Commission — Victoria’s independent economic regulator of certain prescribed services as determined by the Victorian Government. The commission is responsible for setting maximum:</p> <ul style="list-style-type: none"> • charges for unbooked CPV services beginning in the metropolitan and urban and large regional zones • non-cash payment surcharge for booked and unbooked taxi services in Victoria.
Unbooked services	Unbooked services are CPV services that are provided other than as a result of the provision of a booking service. They include trips hailed from the street, hired from a recognised taxi rank or trips that have not been booked via an application, over the phone or website.