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Ministry of Business, Innovation & Employment
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Retail NZ submission: Consultation on payment services regulation

Overview

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand's retail sector comprises approximately 30,000 businesses and employs around 222,000 Kiwis.
2. Retail NZ consulted our membership in the preparation of this submission.
3. We welcome the Ministry of Business, Innovation & Employment's consultation about and investigation into the regulations underpinning New Zealand's payment services. Retailers experience several frustrations with the current settings, and can see merit in re-evaluating what is currently in place, and considering what changes are required to ensure a more modern system that works for all users.

The payment services landscape

4. We agree with the description of payment services as outlined in Section 1 of MBIE's discussion document.

The rules that apply today

5. In question 2, the discussion document asks: *On a scale of 1 (not clear) to 5 (very clear), how clear is it what rules and protections apply to the payment services you provide or use?*
6. Retail NZ members often offer multiple payment methods to their customers, and with that comes some confusion and ambiguity over what rules and protections apply to which payment methods. Overall, we would score this a 2.
7. In question 3, the discussion document asks: *On a scale of 1 (poor fit) to 5 (very good fit), how well in practice do the current rules and protections fit the payment services you provide or use?*
8. Retail NZ members have reported frustrations in this area. For example, the requirement by some banks for the account name, as well as the number, to be entered for a bank transfer. Our members say there have been instances where some banks have stated there is no match, even when the customer has entered the details accurately, which can put customers off from going through with a sale. Members also say when fraud occurs

with a customer's online credit card payment, it is the business which ends up losing out on the money even though credit card companies publicly say one of the reasons for the fees they charge merchants is to make up for the higher risk of online payments. Overall, we would score this a 2.

9. Question 5 asks: *Have you experienced any problems with payment services (such as fees you didn't expect, delays in getting paid, outages, or scams/fraud)? If yes, what happened? Was it clear who was responsible and what protections applied?* In addition to the examples we outlined in paragraph 8, our members have also reported that not all payments appear immediately, sometimes they don't see money that has been paid electronically in their bank accounts until the next day.

What may not be working well today

10. Retail NZ members can see there would be a benefit to having closer alignment with Australia in terms of payment rules and services, as outlined in paragraph 76 of the discussion document. While most retail shopping still occurs in person, as technology develops and people who have grown up in a digital world start to become more active shoppers, the demand for online shopping will also grow. Many retailers offer an online shopping experience, and with the economic conditions being difficult for retail in New Zealand for many years now, being able to market to consumers in other countries provides retailers the opportunity to continue to operate and grow their businesses.
11. Question 6 asks: *Do you feel you have enough choice of payment options, and are prices and service levels improving over time? If not, what are you noticing?*
12. Our members say that it is not necessarily a lack of payment options that is the issue, it's a combination of including options that consumers request, training staff on additional payment methods, and the difficulty of knowing whether new payment options will survive or not, and therefore, whether it is worth investing in new systems and training.
13. Retailers largely have to take their cue from their customers. If customers aren't asking for new payment options, then it makes little sense for retailers to invest the time, effort and money into investigating and setting up a new option in their stores or on their online shops. Open Banking is a good example of where there has been a lot of talk of how it will revolutionize payment options for both consumers and businesses, however we have not yet seen an uptake from consumers and businesses to date.
14. Traditional payment methods through Visa and Mastercard dominate the payment options available to retailers, with a recent report from Commerce Commission noting that 74% of payments in New Zealand are made via either Visa or Mastercard.
15. Question 9 asks: *Overall, do you think protections for people and businesses using payment services are clear, strong enough and reasonably consistent across different providers and services? Why or why not, and can you share examples and impacts?*
16. Retail NZ members do report some confusion and frustration around the protections, or lack of them, for businesses using payment services. For example, bank transfers requiring an account name and account number be put in before it proceeds to the payment offers protection to the customer to ensure they are checking the details are correct before proceeding. However, one member says sometimes their customer gets an error message saying it is not a match, even though the account name has shown as

correct when customers have sent screenshots for clarification before going ahead with the payment.

17. Another example is around pre-payment. Members report a lack of clarity around protections for both retailers and their customers when businesses require pre-payments or deposits for goods not currently in stock, such as for pre-orders or large items that cannot be stored on-site. Our members have a range of different approaches to taking, holding and paying financial advances and would appreciate more clarity around what is required, or best practice, in these situations.

18. With regards to question 10, From a Retail NZ perspective, it does not seem to matter whether the business is small or large, nor their location, the current lack of rules and transparency around fraud protections is something many retailers struggle to deal with. The systems currently in place also seem to benefit the customer and the credit card companies rather than businesses, which leaves retailers vulnerable to abuse of the current systems (such as scams or fraud).

19. The discussion paper also asks about how payment services will develop into the future in questions 12 and 13.

20. Retailers predict that without a legitimate and serious disrupter in the payments space, or the proper investment in open banking, payment services will stall and the status quo will remain. Retailers would love to see greater competition and innovation with regards to payments services, but with the duopoly of Visa and Mastercard in the credit card space, and the big four Australian-owned banks holding the majority of the banking market, it is difficult to see how new payment services, or more cost-effective payment services, would be able to develop and get a foothold in New Zealand – unless there were major changes to the rules around payments. Retailers would welcome further competition additional payment service options for themselves and their customers.

Options for future rules for payment services

21. Retail NZ supports the proposed objectives for any future rules for payment services as outlined in Section 4 of the discussion document.

22. Our members can see there would be benefits in trans-Tasman alignment on payments rules, as long as it simplifies and not over-complicates the system, as there is the risk that would lead to even higher costs.

23. Retailers see increasing support for competition and innovation as particularly important, as under the current system they are the most vulnerable part of the payment chain, and first to lose out if something goes wrong with a payment. They see more competition and innovation as potentially leading to greater protections for businesses, and a more robust payment system overall.

24. It is also important futureproofing is built into any new rules. Technology is developing at such a fast rate that any rules must be able to keep pace.

25. Retail NZ is of the view that a risk-based approach to developing regulations would be appropriate, with higher standards to be met and additional safeguards to be implemented by providers wanting to offer higher-risk payment types.

26. Question 20 asks: *What future approach (or mix of approaches) for payment services do you think could work best for New Zealand, and why?* Retailers are most eager to see competition improve in this space, and for this to lead to lower payment service costs

for both businesses and their customers. From that perspective, the more open New Zealand is to new payment methods, technologies and innovations, the more likely that will be achieved. However, that needs to be on the condition that all payment services offered in New Zealand adhere to appropriate security and privacy standards.

Conclusion

27. Thank you for the opportunity to make a submission.
28. Retal NZ members agree regulations around payment services need to be addressed, in order to encourage competition and innovation in the payment space. Both businesses and customers are paying high costs for the payment options currently available, and the current settings also do not incentivise investment and innovation.
29. Organisations, such as Business NZ, which have previously opposed direct regulation in the payments space are now acknowledging some legislation is warranted. We understand concerns from some parties that heavy-handed regulation could have negative consequences, and agree that regulation needs to be approached in a way that encourages competition and innovation, rather than stymies it.
30. Retailers believe that they are disadvantaged when something goes wrong within the payments chain, such as instances of fraud. Greater clarity is needed from credit card companies and banks as to what steps retailers need to implement to ensure that their protections are being met.
31. Retail NZ is happy to discuss any aspect of this submission further.
32. No part of this submission should be withheld under the OIA.

Sincerely,

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CHIEF EXECUTIVE

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