

Information Request

Non-Cash Payment Surcharge Review 2019

19 December 2018

Background

Under the Commercial Passenger Vehicle Industry Act 2017 (Vic) (the Act), we have a role in determining the maximum amounts of non-cash payment surcharges for taxis (maximum surcharge). We officially started our review of the non-cash payment surcharge for taxis by publishing a consultation paper on 11 December 2018. Under the Act, we must complete our review on or before 2 July 2019.

Our role

Section 124(3) of the Act requires the commission to determine the maximum non-cash payment surcharge payable when passengers pay for a taxi with any non-cash payment method. Non-cash payment transactions include those made by credit card, charge card, and debit card.

We do not regulate the non-cash payment surcharges for rideshare and hire car services because they are covered by the Reserve Bank of Australia's (RBA) surcharging standard.¹ Under the Act, fees or charges imposed in respect of the use of a credit card, charge card or debit card by a participant in a designated payment system that are of a kind covered by the RBA's standard are excluded from our regulation of the maximum non-cash payment surcharge.²

Our objectives

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.³ 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.⁴ Reasonable cost 'includes any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards' under section 122(3) of the Act.

In performing our functions and exercising our powers, our objective under the Essential Services Commission Act 2001 (Vic) (ESC Act) is to promote the long term interests of Victorian consumers.⁵ In seeking to achieve this objective, we must have regard to a number of matters including incentives for long term investment, the financial viability of the industry and the benefits

¹ RBA 2016, Standard No.3 of 2016: Scheme rules relating to merchant pricing for credit, debit and prepaid card transactions, May.

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

³ Commercial Passenger Vehicle Industry Act 2017, s. 122(1).

⁴ Commercial Passenger vehicle Industry Act 2017, s. 122(2).

⁵ Essential Services Commission Act 2001, s. 8.

and costs of regulation (including externalities and the gains from competition and efficiency), among other things.⁶

Status of our review

We released a consultation paper on 11 December 2018. The consultation paper marks the start of our first review of the maximum surcharge. It is intended to give stakeholders the information that they need in order to share their views on what issues we should consider while assessing the maximum surcharge. It is also intended to give stakeholders an opportunity to comment on our understanding of the industry and the approach we will take to reviewing the maximum surcharge.

After submissions close on the consultation paper, we will release our draft decision on the maximum surcharge in April/May 2019. This draft decision will give stakeholders the opportunity to comment on the analysis underlying our draft decision. Following this, we will release our final decision with a determination on the maximum surcharge on 1 July 2019.

We encourage you to read the consultation paper in conjunction with this information request.

Why we are seeking information from you

We are seeking information from you so we can better understand the reasonable cost of accepting and processing non-cash payment transactions for taxis. In our consultation paper, we proposed to use bottom-up cost assessments and benchmarking to assess the reasonable cost of accepting and processing non-cash payment transactions.

In a bottom-up cost assessment, regulated businesses submit detailed information on their costs to the regulator. The regulator then determines the price required for the regulated businesses to recover the relevant costs (including a market return on assets). In contrast, benchmarking uses information on prices or costs from comparable markets to determine relevant costs.

The data you provide us in response to this information request will help us in setting the maximum surcharge for taxi services. As we noted in the consultation paper, the quality of data provided to us may affect the weight we place on using bottom-up cost assessments and benchmarking when we make our determination on the maximum non-cash payment surcharge. See chapter 3 of the consultation paper for more details about our proposed approach.

This is a voluntary request for information. We have information gathering powers under sections 37 and 37A of the ESC Act, but at this stage we are requesting information be provided on a voluntary basis to assist us to assess the reasonable cost of accepting and processing non-cash payment transactions for taxis.

⁶ Essential Services Commission Act 2001, s. 8A.

Guidance on responding to this request

The information we are seeking

The information we need to do a bottom-up cost assessment includes data on costs, demand and assets associated with accepting and processing non-cash payment transactions. For benchmarking purposes, it is important that we understand your specific cost pressures and how your costs might differ from other payment processors and why.

We request that you respond to the questions contained in attachment 1, in order to help us carry out the bottom-up cost assessments and benchmarking assessments for our determination.

Guidance on content of response

Cost allocation

In collecting data to facilitate our determination, our focus is on the costs, assets and revenue associated with the goods and services we are regulating, which are non-cash payment transactions for taxi services.⁷ However, some persons facilitating the making of non-cash payment transactions for taxis (eg, taxi payment processors or drivers) offer services that are not related to the accepting and processing of non-cash payment transactions for taxis. Your submission should therefore indicate how costs, assets and revenue have been allocated to the regulated service, the basis for your allocation and why that allocator was chosen.

The information on costs, assets and revenue we request in attachment 1 relate to your taxi payment processing business in Victoria. If you do not keep specific records for Victoria, we request information for the whole of Australia.

GST

For all relevant financial information please indicate if the information you have provided includes or excludes GST.

Quality assurance

The costs, assets and revenue allocated to the regulated business should be reconciled with your audited statutory financial statements or accounts ledger. If this is not possible we may ask you to allow us to audit the basis of your response. Your response should also be accompanied by a statement from your CEO on the quality of the information provided (see attachment 2).

⁷ Commercial Passenger Vehicles Industry Act 2017, s.123(a).

In general we would prefer that actual data is provided to us. However, we acknowledge that this may not always be possible. Where the data does not reflect actual information please provide your best estimate and clearly identify which data are actuals and which data are estimates.

Reporting period

The information we are requesting is for the period 1 July 2016 to 30 June 2017 and 1 July 2017 to 30 June 2018 (2016-17 and 2017-18).

Confidentiality policy

The information you provide will be used in developing our draft decision. Our draft decision paper is to be released publicly for consultation. We will treat your information in accordance with the commission's submission policy. We treat all submissions as public information unless the submitter has asked us to treat some or all of a submission as confidential or commercially sensitive. Please clearly specify any information that you **do not** want to be made public.⁸

We intend to publish this information request on our website but we will not publish your response. We may include some of the information you provide in our decision documents, but we will take steps so that any commercially sensitive or confidential information is treated appropriately. We will treat your information as if it is covered by section 38 of the ESC Act.

Date for submission

Please submit your response to this information request on or before 8 February 2019. This timing will enable us to meet our legislative obligation to make a determination on or before 2 July 2019.

Please email your response to transport@esc.vic.gov.au.

⁸ <https://www.esc.vic.gov.au/about-us/our-submission-policy>

Attachment 1

Services

Our review relates only to non-cash payment transactions for taxi services but we are aware that some persons facilitating the making of non-cash payment transactions (eg, taxi payment processors or drivers) also offer other services. There may be instances where costs and assets are shared between different services. In assessing the reasonable cost of accepting and processing non-cash payment transactions for taxis, we need to ensure that we only consider the costs of accepting and processing non-cash payment transactions.

1. What are the key services you provide in relation to accepting and processing non-cash payment transactions for taxi services?
2. Do you offer other services aside from facilitating the making of non-cash payment transactions for taxi services? What are these services?

Costs

In assessing the reasonable cost of accepting and processing non-cash payment transactions it is important for us to understand the range of costs and cost pressures persons facilitating the making of non-cash payment transactions for taxis face. The information on costs we receive will also help us in making a decision on whether there is a need to set more than one maximum non-cash payment surcharge.

3. Please fill the attached spreadsheet with the requested information.

We understand that statutory accounts are usually consolidated across business units. In allocating costs, assets and revenue to the part of the business associated with facilitating the making of non-cash payment transactions for taxis, please describe your method of allocation, the reasons for choosing that method and the numeric quantity of each allocator used. Costs should only be allocated once. If you do not already have a cost allocator, and are not aware of a more appropriate allocator, we suggest using the share of direct costs in total direct costs as the basis for allocating shared costs to different services.

If you do not prepare financial statements, please fill out the income statement worksheet with your best estimates using information from your financial records. If you do not prepare financial statements it is not necessary to fill out the balance sheet worksheet.

4. Please provide a complete list of the cost categories incurred in providing services that facilitate the making of non-cash payment transactions for taxis.

Specific cost items

5. What is the weighted average merchant service fee for each payment type you process (e.g. Visa Credit, MasterCard Credit, Visa Debit, MasterCard Debit, EFTPOS etc.)?
6. Please provide a copy of your latest annual merchant statement from your acquirer or payment facilitator
7. For 2016-17 and 2017-18, what was the average cost to you of purchasing your payment terminals? If you rent terminals, what was the average monthly rental cost?
8. How much do you spend annually on payment terminals:
 - operational costs (paper, software updates, data networks)?
 - maintenance costs?
9. For 2016-17 and 2017-18, what is the total value of your losses as a result of fraud? Please breakdown the value of losses per type of cost (for example, chargeback amount, chargeback fees, others).
10. How much do you spend annually to prevent fraud?
11. For 2016-17 and 2017-18, what is the value of any incentives (commissions, rebates, vouchers, etc.) you provided to networks, operators, and drivers? Please identify the value of each form of incentive separately.

Cost differences between taxi payment processors and other payment processors

If we use benchmarking, we will require information on the differences between taxi payment processors and other payments processors.

12. Do you incur costs that businesses in other industries, under the RBA's surcharging standard, would not? Please identify and if possible quantify any such costs.
13. What are the cost pressures you are facing and how are they different to those faced by payment processors in other industries?

Revenue

Comparison of costs and revenue will give some indication of whether the current five per cent maximum non-cash payment surcharge reflects the reasonable cost of accepting and processing non-cash payment transactions.

14. For 2016-17 and 2017-18, what is:
 - the total value of payments (taxi fares received including the surcharge) you have processed?
 - the total value by payment type?
 - the total number of transactions by payment type?

15. For 2016-17 and 2017-18, what is the total value of the five per cent non-cash payment surcharge collected from passengers for each type of payment?

Payment terminals

The information below will help us understand how businesses recover the costs of investments in payment terminals and associated equipment.

16. For 2016-17 and 2017-18, what is:
- the total number of your payment terminals (including spare units)?
 - the total number of payment terminals in use?
 - the standard useful life of your payment terminals?

Supporting information

The Corporations Act 2001 (Cth) (s.286) requires all Australian companies to keep financial records, with public companies also required to prepare and lodge annual financial reports with the Australian Securities and Investment Commission (ss.292 and 319). Examples of these financial records include financial statements (profit and loss statements, balance sheets, statement of change in equity, cashflow statements), general ledgers, general journals and an asset register, among others.⁹

17. We request that you submit relevant financial records as supporting evidence to the information you provide us in response to this information request.

⁹ <https://asic.gov.au/for-business/running-a-company/company-officeholder-duties/what-books-and-records-should-my-company-keep/#examples-of-records> (accessed on 4 December 2018).

Attachment 2: CEO's statement

In my opinion, as CEO of [*name of company*], the information provided in response to the Essential Services Commission's information request, dated 19 December 2018, represents either:

- "true and fair" actual information;
- the best estimate available to the company I represent; or
- statements of fact to the best of my knowledge.

Signed:

(name of CEO)

Dated
