

## **Antitrust: Commission prohibits MasterCard's intra-EEA Multilateral Interchange Fees**

***The European Commission has decided that MasterCard's multilateral interchange fees (MIF) for cross-border payment card transactions with MasterCard and Maestro branded debit and consumer credit cards in the European Economic Area (EEA) violate EC Treaty rules on restrictive business practices (Article 81). The Commission concluded that MasterCard's MIF, a charge levied on each payment at a retail outlet when the payment is processed, inflated the cost of card acceptance by retailers without leading to proven efficiencies. MasterCard has six months to comply with the Commission's order to withdraw the fees. If MasterCard fails to comply, the Commission may impose daily penalty payments of 3.5% of its daily global turnover in the preceding business year. MIF are not illegal as such. However, a MIF in an open payment card scheme such as MasterCard's is only compatible with EU competition rules if it contributes to technical and economic progress and benefits consumers. In the EU, over 23 billion payments, exceeding a value of €1350 billion, are made every year with payment cards.***

Competition Commissioner Neelie Kroes said: "Multilateral interchange fee agreements such as MasterCard's inflate the cost of card acceptance by retailers. Consumers foot the bill, as they risk paying twice for payment cards: once through annual fees to their bank and a second time through inflated retail prices paid not only by card users but also by customers paying cash. The Commission will accept these fees only where they are clearly fostering innovation to the benefit of all users."

### **The MIF**

MasterCard's business model includes a mechanism that determines a minimum price merchants must pay for accepting the organisation's payment cards. This mechanism is based on a complex network of multilaterally agreed inter-bank fees which industry refers to as "interchange fees". At stake in today's decision are MasterCard's intra-EEA fallback interchange fees ("MasterCard's MIF"). MasterCard's MIF is a charge on each payment at a merchant outlet. This charge ranges between 0.4% of the transaction value increased by €0.05 and 1.05% increased by €0.05 for payments with Maestro debit cards, and between 0.80% and 1.20% for transactions with MasterCard consumer credit cards. The fee is retained by the customer's bank (the "issuing bank") and charged to the merchant's bank (the "acquiring bank"), which then takes this cost element on board in setting its prices to merchants.

MasterCard's MIF applies to virtually all cross-border card payments in the EEA and to domestic card payments in Belgium, Ireland, Italy, the Czech Republic, Latvia, Luxemburg, Malta and Greece. Approximately 45% of all payment cards in the EEA either bear a MasterCard or a Maestro logo and MasterCard cards are accepted at some 85% of businesses accepting debit cards in the EEA.

The Commission prohibited MasterCard's MIF because it inflates the base on which acquiring banks charge prices to merchants for accepting payment cards, as the MIF accounts for a large part of the final price businesses pay for accepting MasterCard's payment cards. This restriction of price competition harms businesses and their customers.

MasterCard presented its MIF as an instrument to "maximise system output". However, during four years of investigation MasterCard failed to submit the required empirical evidence to demonstrate any positive effects on innovation and efficiency which would allow passing on a fair share of the MIF benefits to consumers. The Commission therefore concluded that MasterCard's MIF does not lead to objective efficiencies that could balance the negative effects on price competition between its member banks.

### **The investigation**

The Commission's investigation was initially based on a series of notifications that MasterCard's legal predecessor, Europay International S.A., submitted between May 1992 and July 1995, as well as on a complaint by EuroCommerce of May 1997. After two Statements of Objections (see [MEMO/06/260](#)) and an oral Hearing in November 2006, the Commission further verified MasterCard's arguments through additional fact-finding.

### **Past case practice**

In 2002, the Commission exempted a similar system proposed by Visa (see [IP/02/1138](#)) after Visa offered substantial reforms to its MIF. In particular, Visa offered to reduce progressively the level of its fees from an average of 1.1% to 0.7% until the end of 2007 and to cap fees at the level of costs for specific services. Visa also enhanced the transparency of fees and allowed banks to reveal information about the MIF to businesses. The exemption, however, expires on 31 December 2007 and Visa will from that moment on be responsible to ensure that its system is in full compliance with EU competition rules.

### **SEPA**

The MasterCard MIF decision follows the Commission's sector inquiry into retail banking in 2005 and 2006 (see [IP/07/114](#) and [MEMO/07/40](#)), which found that interchange fee agreements might stand in the way of a more cost-efficient payment cards industry and of the creation of a Single Euro Payments Area (SEPA). The inquiry found that in five EEA countries (Denmark, Netherlands, Norway, Finland, Luxembourg) the payment card system functions without any MIF. The MasterCard decision will support the creation of a SEPA by fostering greater competition in the cards market and preventing an artificial increase of merchant fees due to an illegal pricing mechanism such as MasterCard's MIF.

See also [MEMO/07/590](#).