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UPDATE: European Commission Publishes its Report on the Impact of the Interchange Fee Regulations

July 1, 2020

In March we wrote that the European Commission (the "**Commission**") had published its study on the application of the Interchange Fee Regulation (Regulation 2015/751 on interchange fees for card-based payment transactions, the "**IFR**"). This study was designed to inform the Commission's views for its report on the impact of the IFR, which the Commission is required to deliver to the European Parliament and Council of the European Union by Article 17 of the IFR.

The Commission has now published its report, which builds upon the March 2020 study and takes into account feedback and input from various stakeholders such as card schemes, retailers and payment service providers.

The report arrives at the same conclusion as the study in that the IFR has achieved its major objectives: namely, that interchange fees for consumer cards have declined and this decline has been reflected in reduced merchants' charges for card payments, resulting in benefits to consumers either directly (in the form of lower consumer prices) or indirectly (in the form of improved services to consumers). In the Commission's words, the IFR has a "significant, positive impact on consumers" on the basis that c. 66% - 72% of cost decreases in the longer run are passed through from merchants to consumers.

However, the report also recommends reinforced data gathering and enhanced monitoring to support continued robust enforcement of the IFR (such as assessment of the circumvention of interchange fee caps, and renewal of acquiring contracts for smaller merchants), as well as areas where more time is required to ascertain the full effects of the IFR (such as whether lower interchange fees should be applied or a maximum fee per transaction combined with a percentage cap). As a result of this, the report is not accompanied by any proposed legislative framework for revisions to the IFR.

The key findings from the report are as follows:

- the IFR has achieved its major objectives in reducing interchange fees, with merchants saving in the region of EUR 1.2bn per annum, part of which is passed through to consumers directly or indirectly;
- the reduction in the interchange fee does lead to reductions in merchant service charges, albeit the report does acknowledge the limited bargaining power of smaller merchants and the inability of such merchants to switch acquirers;
- the available evidence does not confirm a causal link between decrease in interchange fee and higher scheme fees. Although the report acknowledges that scheme fees have increased to a limited extent, these increases may be explained by other factors and recommends further data gathering and market monitoring; and
- there is no evidence of a causal link between the IFR and trends in banking or cardholder fees, or in loyalty programmes or in substituting consumer cards with commercial cards; and
- the IFR has increased price transparency as regards the merchant service charge in that a majority of merchants are sticking to the default option of unblended fees.

Next steps:

The report concludes that “robust enforcement by national competent authorities is without prejudice to a possible review of the IFR, on the basis of further monitoring and data gathering”, potentially leaving the door open for future reform in light of the lack of any proposed legislative changes alongside this report. As a follow-up to the report the Commission is also planning a public hearing with stakeholders on 7 December 2020; more information on this will follow on the Commission’s competition website.