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## **PSR Market Review: Card services**

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The Payment Systems Regulator (PSR) has announced that it proposes to conduct a market review into card-acquiring services. It seeks comments on its consultation on the [draft terms of reference](#) by 14 September.

The PSR finds that in the UK in 2017, 13.2 billion payments were made by debit card and 3.1 billion payments by credit card.

If merchants are to accept payments by card, they need to purchase card-acquiring services and the costs they pay may be passed on to customers in the prices they charge.

The PSR wants to be satisfied that the market for card-acquiring services is working well for merchants and, ultimately, benefits consumers.

### **The PSR's market review powers**

Under the Financial Services (Banking Reform) Act 2013 (FSBRA) the PSR has various powers to gather information and to conduct investigations.

The PSR can obtain information for the purposes of carrying out a market review using its information gathering power under section 81 FSBRA.

It can also use information that it routinely receives from participants in regulated payment systems, or request within the framework of pursuing its objectives, to support its functions and to inform itself with a view to deciding whether or not to use its powers.

The PSR sees FSBRA market reviews as one of its principal tools for advancing its competition, innovation and service-user objectives.

### **What issues has the PSR identified?**

The PSR proposes to examine the following in its market review: (1) the nature and characteristics of card-acquiring services; (2) who provides card-acquiring services and how their market shares have developed historically; (3) how merchants buy card-acquiring services; (4) whether there are credible alternatives to card-acquiring services for some or all merchants; (5) the outcomes of the competitive process including the fees merchants pay and the quality of service they receive.



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The PSR has raised concerns that card-acquiring services may not be working well for merchants and, ultimately, consumers. These include concerns that: (1) acquirers have not passed on to smaller merchants the savings they made from the interchange fee caps introduced by the Interchange Fee Regulation (IFR); (2) there is a lack of transparency around the fees merchants pay to accept card payments; (3) there are barriers making it hard for merchants to compare and switch acquirers, and they tend not to shop around; (4) there are barriers to offering services that would help merchants to compare and switch between acquirers; (5) the fees that card scheme operators charge to acquirers ('scheme fees'), and the rules they set, favour larger acquirers; (6) the scheme fee portion of the fees that merchants pay to acquirers is increasing significantly.

The PSR will consider what action to take (if any) if it identifies any particular detriments. Such action might include: (1) making new, or amending existing, general directions; (2) making new specific directions; (3) requiring the operator of a regulated payment system to establish or change their operating rules, to notify the PSR of rule changes or to seek the PSR's approval before making rule changes; (4) making recommendations for industry initiatives or enhanced industry self-regulation; (5) making proposals to the Financial Conduct Authority, which regulates payment service providers including those providing card-acquiring services, where appropriate; (6) publishing guidance; (7) carrying out an investigation into a potential breach of the Competition Act 1998; (8) making a market investigation reference to the Competition and Markets Authority to investigate a market or a feature of several markets.

### **What can businesses affected by the market review do now?**

Below is a summary of key issues to consider for businesses operating in the sector, faced with the prospect of a market review and, potentially, a full market reference.

- **Regulatory strategy:** consider at the outset the optimum regulatory strategy. For some parties, a 'wait and see' approach may be appropriate where it is not clear at the outset how deeply a business' interests are engaged. However, there can be significant benefits in engagement with the regulator at the earliest stage, particularly where there is an information gap between the regulator's understanding and information and the reality of the competitive dynamic. The terms of reference will shape the PSR's review and this is a key opportunity to have input into its scope.



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- **Documents:** consider whether business documents could be misinterpreted and how best to defend them; consider the impact of responses on the regulator's thinking.
- **Third party complaints:** third party complaints will need to be addressed; anticipate how third parties (particularly competitors or customers) may be concerned about industry practices and how best to address those concerns.
- **Media and PR:** the payments sector is already high profile and with more people making payments by card the review takes place against a highly charged and consumer-facing environment. Consider how to engage the business' PR and media team to help shape public perception and deliver a consistent message.
- **Key drivers of outcome:** the outcome (in terms of timing and any changes brought about) will depend on a number of factors including (i) whether complaints, particularly from retailers and consumers, can be substantiated; (ii) strength of evidence gathered; (iii) arguments and analysis presented by interested parties; (iv) whether any remedies are offered.
- **Business opportunities:** consider whether there are any business-specific messages to get across or potential to work with trade bodies to improve the profile of the industry.

For more information on the market review see [here](#).

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