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Attn: Payments Team Secretariat Commerce Commission | Te Komihana Tauhokohoko

Via email: PaymentsTeam@comcom.govt.nz

Commercial Credit Card Interchange Fee Regulation for Mastercard and Visa Networks – Draft Decision and Reasons Paper

Dear Rachael,

American Express appreciates the opportunity to respond to the Commerce Commission's draft decision on commercial credit card interchange fee regulation for Mastercard and Visa networks. We support the Commission's objectives of promoting competition and efficiency in New Zealand's retail payments system. However, as we have noted in previous submissions, we remain concerned that further price regulation may have unintended consequences for competition, innovation, merchant choice and the broader payments ecosystem.

With respect to commercial cards, the Commission's final determination should take into account the value these products can deliver beyond a simple means of payment. American Express business cards support commercial customers, including small and medium-sized businesses, by providing access to unsecured funding with flexible spending power, up to 50 cash flow days, and tools that assist with business expense management. These features support businesses in managing supplier payments, travel, inventory and day-to-day operating expenses, while also supporting merchants by facilitating higher-value transactions and purchases that may otherwise be delayed or not occur. This reflects the broader value of commercial card products, which can provide working capital solutions for businesses, particularly small and medium-sized businesses managing supplier payments.

We would also welcome the opportunity to reiterate our longstanding position that surcharging should not be permitted. We recognise that surcharging reform has been signalled for some time and that industry is seeking clarity on the likely direction of travel in New Zealand. In our view, any future surcharge framework, including any surcharge ban, should not be selective in its application. A ban that applies only to certain payment providers or networks risks creating a barrier to competition by disadvantaging smaller or differentiated payment providers. If a surcharge ban is introduced, it should apply consistently across payment providers to preserve competition and avoid inadvertently entrenching the dominant four-party schemes.

As the Commission is aware, although American Express does not have interchange fees, the resulting effects of interchange regulation and subsequent reductions in merchant fees create competitive downwards pricing pressures that impact us as a non-must-take payment provider with no market power. Therefore, blunt price regulation can disproportionately affect smaller players and discourage investment and innovation within the market. This is explained below.

American Express is a small and optional competitor in New Zealand

American Express remains a small and optional competitor in the New Zealand cards market. As the Commission notes in the Draft Decision and Reasons Paper, American Express' continues to represent a relatively small proportion of domestic commercial credit card transactions.[1]

[redacted]

[redacted]

[redacted]

This matters because, as the Commission recognises, American Express is not a "must-take" network.[2] Merchants choose whether to accept American Express, and cardmembers choose whether to use American Express, based on the value we provide. We therefore must continuously demonstrate that value through delivering higher-spending cardmembers, investment in merchant campaigns, fraud prevention, tourism spend, premium service and differentiated products. In contrast to the dominant four-party schemes, American Express cannot rely on ubiquity or default acceptance. We welcome the Commission's recognition in the draft decision that American Express has a smaller presence in New Zealand and is not a must-take network. That recognition should be central to the Commission's assessment of any potential competitive effects.

American Express does not have interchange fees, but is indirectly impacted by interchange regulation

American Express operates a three-party, closed-loop model. Most American Express-branded cards globally, including those issued in New Zealand, are issued and acquired by American Express itself. As a result, American Express does not have interchange fees, nor does it have scheme fees that operate as a floor for merchant service fees. Instead, American Express generally negotiates merchant acceptance and pricing bilaterally with each merchant.

As we have previously submitted, interchange regulation has indirect effects on American Express, despite American Express not having interchange fees and not being subject to interchange regulation. Reductions in interchange on the dominant four-party schemes create downward

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[1] Commercial Credit Card Interchange Fee Regulation for Mastercard and Visa Networks – Draft Decision and Reasons Paper – 2.42.

[2] Commercial Credit Card Interchange Fee Regulation for Mastercard and Visa Networks – Draft Decision and Reasons Paper - 3.23

competitive pressure on the commercial terms American Express is able to agree with merchants. That effect is material across the markets in which American Express operates, including New Zealand, where American Express has a small market share, non “must-take” position and must continuously demonstrate value to merchants and cardmembers.

It has been previously suggested that regulation of Mastercard and Visa interchange fees provides an unfair advantage to three-party schemes such as American Express. That claim is not supported by the evidence. American Express’ market share figures, as mentioned above, are inconsistent with any suggestion that interchange regulation gives American Express an unfair competitive advantage.

Accordingly, the Commission should not assume that further reductions in Mastercard and Visa interchange will benefit American Express. The more likely effect is further competitive pressure on smaller, optional networks, which may reduce their ability to invest, innovate and provide differentiated alternatives in the New Zealand payments ecosystem and may ultimately entrench the position of the dominant Mastercard and Visa networks rather than promote a more competitive payments ecosystem.

Conclusion

American Express is a small, optional and differentiated competitor that must earn acceptance and usage by delivering value to both merchants and cardmembers. The Commission should avoid assuming that reductions in Mastercard and Visa interchange fees will benefit American Express. The evidence from comparable jurisdictions, including Australia, indicates that interchange regulation places downward competitive pressure on three-party schemes and smaller competitors, rather than confer an unfair advantage.

American Express therefore encourages the Commission to ensure that any final decision is evidence-based, proportionate, and attentive to whole-of-system effects, including the potential impacts on smaller competitors and alternative payment models. We would welcome the opportunity to continue engaging with the Commission as it considers submissions and moves toward its final decision.