MasterCard and VISA modify network rules and increase transparency of cross-border interchange fees

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I. Introduction

MasterCard and VISA recently repealed some of their network rules and published their cross-border interchange fees on the internet. This article sets out the most important changes and briefly reflects on their importance for competition.

II. Background

The network rules and pricing mechanisms of VISA and MasterCard’s payment card systems have been subject to several Commission investigations. The European Commission granted an exemption for VISA’s multilateral intra-European cross border interchange fees (‘MIF’) for consumer cards until 2007 (1) and cleared some network rules (2), but recently opened proceedings on VISA’s rule excluding membership for any applicant deemed by the Board to be a competitor of VISA. (3) The Commission also opened proceedings with regard to MasterCard’s cross-border interchange fees for consumer and commercial cards. (4) Both investigations are pending. Moreover, a number of national competition authorities and financial regulators across the European Union are investigating the pricing of domestic and international payment systems due to the increasing economic importance of cards for over the counter payments.

Interchange fees paid by the merchant (‘acquiring’) bank to the cardholder (‘issuing’) bank largely determine the prices paid by merchants for accepting VISA and MasterCard branded payment cards. To the extent that these fees are multilaterally fixed by a group of banks, the setting of these fees and consequently the distribution of costs and revenues within the system is no longer subject to the immediate competitive pressure of market forces. In order to reduce the ensuing distortive effects of interchange fees on competition in the market for merchant acceptance services, VISA capped the level of its intra-European cross-border interchange fees at the cost of services which its cardholder banks provide to the benefit of merchants. In addition, VISA undertook to reduce the overall level of intra-European cross-border interchange fees, by capping the fee for debit card payments at €0.28 until 2007 and by reducing the ad valorem fee for credit and charge card payments to 0.7% by 2007. (5) Moreover, VISA allowed its banks to disclose the level of the interchange fee and the cost components used for calculating the cap. (6)

III. More transparency of cross-border interchange fees

However, it appears that even though VISA’s member banks were no longer prohibited from disclosing the interchange fee, merchants had difficulties in obtaining this information from their acquiring bank. After the Commission addressed the issue of transparency with VISA and MasterCard, both networks respectively agreed to publish their intra-European cross-border interchange fees on the web. As can be derived from the websites of both networks (7), the interchange fee rates for consumer credit and charge cards are currently set at 0.80% – 1.30% (MasterCard) and 0.70% – 1.05% (VISA). The rates for debit cards are 0.50% – 1.15% (Maestro) and €0.27 – 0.30 (VISA electron). VISA and MasterCard also disclosed to which extent their respective Boards take different categories of cost into account for setting their respective interchange fees. (8)

Merchants have welcomed the networks’ move to publish the cross-border interchange fees on the internet as a step in the right direction. However, it would appear that most payment card transactions in Europe are domestic and therefore subject to a separate set of domestic interchange fees. In

(5) Both caps are calculated on the basis of the yearly weighted average of the different interchange fee levels applicable to the relevant transactions.
(8) 50% p. guarantee (MC + VISA), 25% (MC) / 26% (VISA) free funding, 25% (MC) / 24% (VISA) processing.
contrast to the cross-border interchange fees, these domestic fees still remain undisclosed in both networks.

IV. Abolition of network rules and new license

Both MasterCard and VISA also repealed the so-called 'No Acquiring Without Issuing' ('NAWI') Rule, which obliged their acquiring banks to issue a substantial number of payment cards before starting to acquire merchants for card acceptance. Merchant acquirers are therefore no longer obliged to issue cards in the Visa or MasterCard systems. MasterCard also abolished the 'No Discrimination' Rule (') ('NDR') in the European Economic Area as of 1.1.2005. (2) This Rule prohibited merchants from charging a fee on top of the final retail price if MasterCard/Maestro is used for payment. Merchants, however, appear to have refrained from surcharging even in countries where the Rule was not enacted. Based on investigations in Sweden and the Netherlands (3), the Commission cleared a similar rule in VISA’s network in 2001 as not appreciably restricting competition between acquiring banks. (4)

Finally, following a request of the Commission, MasterCard also introduced a new cross border acquiring license for its debit card ‘Maestro’. Maestro debit cards are gaining increasing significance across the European Union. Maestro recently replaced Switch and Solo as domestic debit cards in the UK and has become the dominant debit card in several other EU Member States. It is hoped that this new cross-border acquiring license will invigorate competition between MasterCard acquirers to the benefit of retailers and their customers in these countries.

V. Conclusions

It remains to be seen to what extent the increased transparency of cross-border interchange fees — although not of domestic interchange fees — and the modification of VISA’s and MasterCard’s network rules contributes to increasing competition. Several issues remain to be addressed. Investigations into MasterCard’s interchange fees are ongoing. The intransparency of domestic interchange fees and the question as to whether these fees are acceptable under European and national competition law are issues to be addressed within the European Competition Network.

(1) Also referred to as ‘No Surcharge Rule’.
(2) VISA so far did not follow this move.
(3) http://europa.eu.int/comm/competition/antitrust/cases/29373/studies/.
(4) See FN 2.