

Visa Europe's response the BEIS consultation paper on reforming Competition and Consumer Policy

Visa in the UK

For over 60 years, Visa has brought together the ideas, innovation, data and partners required to make the digital transformation of society sustainable and inclusive. We connect the world through the most innovative, reliable and secure payment network – enabling individuals, businesses, and economies to thrive. Today, Visa connects more than 3.6 billion cards and 70 million merchant locations in 200 countries through a global network of 15,200 financial institutions clients.

Visa is the world's leader in digital payments. Visa is not a bank and does not issue cards, extend credit or set rates and fees for account holders on Visa products. Rather, our advanced transaction-processing global network facilitates authorisation, clearing and settlement of payment transactions.

Our mission is to connect the world through the most innovative, reliable and secure payment network – enabling individuals, businesses and economies to thrive. Our advanced global processing network, VisaNet, provides secure and reliable payments around the world, and is capable of handling more than 65,000 transaction messages every second. Our relentless focus on innovation is a catalyst for the rapid growth of connected commerce on any device. As the world moves from analogue to digital, Visa is applying our brand, products, people, network and scale to reshape the future of commerce.

Visa's European headquarters are in Paddington, and we employ approximately 2,000 people across our UK offices. We attract and retain a highly skilled workforce that currently supports not just our UK business, but also our European and some of our global businesses. We are proud to have one of our three global data centres in Basingstoke and, since 2018, London has been home to one of our four global centres of Innovation, our Transportation Centre of Excellence, and Visa's Cyber Fusion Centre.

Introduction

Visa Europe welcomes the opportunity to respond to proposals for reforming competition and consumer policy in the UK as set out by the Department for Business, Energy and Industrial Strategy (BEIS) in its recent consultation paper.

We support the continued efforts and focus of this Government to ensure that the UK remains welcoming to new ideas, technology, and collaboration. We understand the need to create the right conditions for healthy competition in UK markets, and to ensure that consumers are protected from rip-offs and bad business practices. We recognise that there has been an increase in online shopping during the pandemic and that some websites are exploiting consumers' behavioural biases to force customers into purchases that they would not have otherwise made. Some traders are also making it difficult for consumers to cancel subscriptions, which can lead to ongoing consumer detriment.¹

We recognise the need to ensure positive competitive outcomes, protect consumers and tackle bad business practices. At the same time, we are mindful of the unique position and specific features of the payments sector in the UK. This includes its strategic importance to the UK economy and existing high levels of competition that have brought about significant innovation and sustained improvement in service quality and consumer outcomes. Additionally, there is extensive oversight by multiple regulatory authorities with strong remits, including the Payment Systems Regulator (PSR), the Financial Conduct Authority (FCA) and the Bank of England.

We have therefore prepared our response with these specific features of the payments sector in mind. We focus our comments on the nature of competition in payments, the protections that are available to customers making Visa payments, and the nature of the existing regulatory oversight in payments. Our key messages are as follows:

1. **Competition in payments continues to deliver positive outcomes for end users.** Competition in payments has intensified over time with technological innovation bringing new solutions to customers from an ever-growing range of providers. Research shows that customers' experience of payments is very positive.²
2. **Sustained positive outcomes are reinforcing ever increasing customer expectations in payments.** Payment firms such as Visa work tirelessly to offer high levels of operational resilience and deliver the high standards and choice that customers have come to expect.
3. **Visa is committed to facilitating safe, secure, and reliable digital commerce and innovating for the benefit of end users.** We are relentless in strengthening the security, features, and soundness of transactions and enhancing the security of the payments ecosystem. We use multiple levers to make sure that customers are protected when making payments.
4. **We are supportive of a proportionate approach to regulation that is based on principles and robust evidence and avoids unnecessary duplication and complexity.** The payment industry is already overseen by multiple authorities that collectively provide extensive oversight on a range of issues, including on competition and consumer policy. The industry is already working together with the PSR to enhance outcomes where needed, and enhanced measures in payments could create unnecessary complexity and uncertainty, and lead to consumer detriment.

¹ BEIS, Reforming Competition and Consumer Policy, July 2021, paragraph 0.24.

² PSR, Consumer Research 2020, Summary report, November 2020.

Key Message 1: Competition continues to deliver positive outcomes for end users in payments

The UK is home to one of the most advanced and dynamic payment sectors in the world. High levels of competition have brought about significant innovation and sustained improvement in service quality, delivering positive outcomes for end users. The sector is also changing at an incredibly fast pace – technological innovation, the emergence of new fintech companies, and the rapid adoption of e-commerce and new, next generation retail experiences are all contributing to this rapid change.

The following trends and features demonstrate the continually evolving, innovative, and competitive nature of UK payments – as recognised by the PSR in its recent Strategy:

- increasing competition between payment systems and *"greater overlap in the payment services they can support"*.³
- entry of payment systems that *"have the potential to bring greater choice and competition"*,⁴ such as Open Banking payment initiation and Faster Payments (FPS).
- the potential for further new entry, for example from distributed ledger technologies or from a non-payment operator such as a social media firm.⁵
- the growth in usage of digital wallets such as Apple Pay and Google Pay.⁶
- the evolving role of interbank payment systems, following the regulatory and policy work that has been undertaken to develop FPS and Open Banking to enhance interbank payments.⁷

Competition in payments is also intensifying internationally. There are several examples of potential new entrants that have been active in other markets outside of the UK, such as WhatsApp Pay, Swish and various Chinese payment solutions. Such entrants have the potential to rapidly change competitive dynamics in the UK. This is evidenced by the rapid growth in Open Banking transactions (23% m-o-m in the period March 2020 to March 2021)⁸ and FPS transactions (21% annual in 2020)⁹ more generally.

The high level of service quality in payments is reflected in consumer research. Research published by the PSR indicates that *"there is a high level of satisfaction with the choice of payments systems available to consumers, trust that the system works well, and problems are felt to be rare"*. Indeed, *"the vast majority (93%) of consumers [are] satisfied with the choice of payment types available to them"*.¹⁰ Our own insights suggests that customer experience of cards is very positive, with a specific focus on trust, security, reliability, fraud protection, and the speed of payments.

We understand the Government's desire to create the right conditions for healthy competition across UK industries and to ensure positive outcomes for consumers. In payments, high levels of competition from a diverse range of providers are already meeting the ever-changing needs of end users and successfully delivering positive outcomes for customers.

³ Paragraph 3.30 in the Proposed PSR Strategy.

⁴ Paragraph 3.34.

⁵ Paragraph 3.30.

⁶ Paragraph 3.7.

⁷ Paragraph 3.39.

⁸ Source: OBIE.

⁹ Source: UK Finance.

¹⁰ PSR: Consumer Research 2020, Summary report, November 2020.

Key Message 2: Sustained positive outcomes are reinforcing ever-increasing customer expectations in payments

In the payments sector, sustained positive outcomes have enforced ever increasing customer expectations. Above all, customers care about trust, security, and reliability – and payment networks work tirelessly to offer high levels of operational resilience, and deliver the high standards and choice that customers have come to expect.

At Visa, our vision is for payments technology to seamlessly meet customers' ever-changing needs. We collaborate with industry leaders to explore the new technologies that will achieve this, and always innovate with security, reliability, and trust as our highest priorities.

For example, contactless technologies have fast emerged as an area of strong customer preference. As a result, Visa and the broader payments ecosystem has responded rapidly to enhance and improve contactless services to meet this evolving need. This has included supporting retailers and public transit systems to enable the adoption of contactless. We have also worked with more than 55 governments around the world – including the UK Government – to raise contactless transaction limits, thus reducing the share of transactions that require consumer contact with a terminal. The increase in the contactless limit to £45 in the UK in April 2020 was described by consumers as the most popular measure implemented by the financial services industry at the start of the pandemic.¹¹ We were proud to play a leading role in allowing consumers to make larger purchases without entering a PIN and cutting queuing times in shops.

Looking ahead, the contactless limit in the UK will increase again from £45 to £100 on 15 October. At the same time, cardholders with selected banks will also be able to control the contactless limit on their debit cards through a mobile app, allowing them to 'toggle' contactless functionality on and off and set a personal contactless limit between £30 and £95 (in increments of £5). This will give cardholders more flexibility to manage their cards with a more personalised service. Contactless payments will continue to be subject to the same protections as other card payments, and customers who fall victim to contactless card fraud will not be left out of pocket.

We understand the importance of trust, security and reliability for customers and recognise the need to protect consumers from bad business practices. In payments, high levels of competition have brought about significant innovation and sustained improvement in service quality and outcomes – and payment providers are working tirelessly to deliver the high standards that customers have come to expect.

¹¹ UK Finance survey on Covid-19 financial services measures, May 2020.

Key Message 3: Visa is committed to facilitating safe, secure, and reliable digital commerce and protecting customers

Online shopping has been a vital part of our economy for many years. Given further rapid increases in online activity during the pandemic, it is right that the Government looks at the way in which retailers use customer data, and sees that consumers are protected from bad business practices.

Visa has been at the heart of e-commerce since its inception and many of our innovations are aimed at facilitating safe, secure and reliable e-commerce experiences. Our business is founded on the promise of securely processing billions of transactions each year. In recognition of this responsibility, Visa is relentless in strengthening the security, features and soundness of transactions, and utilising our brand and network to enhance customer experience and the security of the payments ecosystem.

Protecting e-commerce for all end users is therefore paramount to our business. Our cyber defences are among the most sophisticated in the world and we invest heavily in network security and rely on layers upon layers of technology to safeguard and protect the transactions and data flowing through our system. We collect and analyse over 9 billion security events each day. These events give us insight into what is happening on our network in real-time and are used to protect Visa against new threats.

In addition to protecting our own systems, we are focused on preventing fraud. We have invested heavily in devaluing data via tokenisation and as of July 2020, we have issued over one billion tokens in markets supporting 6 billion tokenised transactions. This approach has helped keep Visa's global fraud rates near historic lows – less than one tenth of one percent of volumes transacted on Visa cards are lost to fraud. During 2019, we helped financial institutions prevent an estimated \$25 billion in fraud using our artificial intelligence (AI)-powered risk scoring engine. Our Visa Advanced Authorisation (VAA) platform uses AI and machine learning to evaluate 500 risk attributes in each authorisation request, in real time.

Supporting cardholders – stakeholder education

The world of digital payments is new and exciting but can also feel intimidating and unknown to some cardholders and merchants. At Visa, we are doing more than ever to ensure that those who want to can transition to digital payments seamlessly. We recognise that turning to digital commerce can require education and trust, and the importance of informing and reassuring customers and businesses about how to pay and be paid safely.

This is why we are working with our bank partners and consumer advocacy groups to help new users understand how to shop online safely, and how to use mobile and contactless payments. Our comprehensive How You Pay Matters campaign offers tips, advice, and resources to help customers navigate the world of online shopping, and we are also making sure that customers know they are secure when they pay with Visa.

However, we recognise that there are some customer groups for whom digital payments are not accessible just yet, and who still rely on cash as a means of payment. To assist these customers, we have implemented an access to cash initiative, providing financial incentives to retailers to offer cashback at tills. We are also working with the PSR to enable cashback without purchase, which will help those consumers who may be poorly served by local banks or ATMs.

We also recognise that no two cardholders are the same and have adapted our existing digital solutions to meet the variable needs of consumers. Our Visa Transaction Controls enable cardholders to track and manage all payment activity on accounts, and our client partners are doing more than ever to make

access to online banking as easy as possible. However, we recognise there is still some way to go in bringing the benefits of digitalisation to as many people as possible.

Consumer protection - supporting customer claims

Trust and security are fundamental to a functioning, innovative and inclusive global payments network. At the same time, customers must have the confidence and knowledge that they will be protected should things go wrong, whether shopping online or in a physical store. As part of Visa's ongoing commitment to consumer protection, we have an established 'chargeback' process that can help Visa cardholders get their money back in situations such as when goods or services have been bought but have not been delivered or are not received in the expected condition, and the cardholder has not been able to resolve the matter directly with the merchant.

A chargeback (also known as a dispute) is a way for a cardholder's bank to reclaim money from the retailer's financial institution (acquirer) when they do not get the goods or services they paid for, including if the retailer or supplier has gone out of business. Chargebacks are not a legal right, but if the cardholder paid on a Visa debit or credit card, they can address a chargeback claim to the bank that issued their card, which can in turn put in a request to the retailer's acquirer.

The same chargeback process allows issuers to cancel recurring payments on behalf of customers by cancelling the use of their Visa credentials. Once a chargeback request has been raised by an issuing bank, the merchant should stop using the payment credentials and seek an alternative payment method from the cardholder. This mechanism serves to protect customers from recurring payments that they no longer consent to and that may be challenging or complex to cancel through the merchant.

Visa's dispute rules often provide an additional layer of protection above and beyond what the cardholder may enjoy under applicable consumer protection laws. Visa's approach to disputes between cardholders and merchants is governed by Visa's rules (rules we set out for financial institutions who want to issue or accept Visa transactions to help us maintain a fair and high standard of service) and managed systematically on a global basis. This approach is designed to protect cardholders when merchants anywhere in the world fail to deliver a promised good or service.

Recurring transactions – protecting customers

Subscription contracts have become increasingly popular among customers and merchants in recent years, and form "an increasingly important part of online business models", as identified by BEIS.¹²

For customers, subscriptions represent better value and are often more convenient than repeat purchases. For merchants, they can improve customer retention, support accurate cash flow forecasting, and reduce operational costs by reducing the need to chase payments. However, there are still challenges with the way in which subscriptions are often presented and sold to consumers, and some traders are making it difficult for consumers to cancel subscriptions, resulting in ongoing detriment.¹³

At Visa, we continuously strive to enhance customer experience and protect the integrity of payments. We therefore use multiple levers to make sure that customers are protected when setting up and making recurring payments. We have developed our approach over time and continue to make updates and

¹² BEIS, Reforming Competition and Consumer Policy, July 2021, paragraph 2.10.

¹³ BEIS, Reforming Competition and Consumer Policy, July 2021, paragraph 0.24.

changes to make sure it remains current and continues to meet end-user needs. Key elements of our approach to protect customers making recurring transactions are set out below.

1. **Visa scheme rules.** Visa scheme rules govern participation in the Visa card scheme and specify the rights and obligations of participants in the Visa payment system, including the minimum standards with which participants must comply. For recurring transactions, our rules require merchants to clearly state the terms and conditions (T&Cs) associated with recurring transactions and gain customer consent before initiating payments. Merchants must also provide customers with a simple cancellation procedure and notify customers seven days before the end of a trial period, when six months or more have elapsed since the last transaction, or when the nature of the recurring agreement has changed. Our rules also oblige acquirers to make sure that merchants operate and behave consistently with these provisions. Acquirers are responsible for vetting merchants and for providing training materials to ensure that merchants understand and comply with relevant policies, and for monitoring compliance with the rules.
2. **Products and services.** Visa products and services can help to prevent recurring transactions when the customer has withdrawn consent. For example, Visa's card lifecycle management solutions help to ensure that customer payment credentials are up to date and that merchants are informed when customers withdraw their consent. The Visa Stop Payment Service (VSPS) also helps issuers to stop 'card on file' payments – such as recurring transactions and instalment payments – from being processed through VisaNet when customers withdraw their consent.
3. **Compliance monitoring and penalties.** We undertake periodic compliance monitoring reviews with merchants who offer recurring transactions. The aim of these reviews is to explore problem areas identified through engagement with issuers and develop suitable responses. Issuers are also reminded to advise Visa of any merchant requiring investigation regarding recurring transactions. We also undertake regular compliance programmes to address merchant misbehaviour generally. For example, the Visa Chargeback Monitoring programme monitors merchants that generate an excessive level of disputes and requests for chargeback, while the Global Brand Protection programme is focused on transactions that may be illegal, prohibited, and brand-damaging – including deceptive marketing practices.

We are supportive of the proposals set out in the consultation document for enhancing consumer protections around online subscription contracts and strengthening the requirements for traders to be clear about contract terms, remind customers about autorenewal, and provide simple cancellation routes.¹⁴ These proposals are consistent with our own understanding of the areas of challenge associated with online subscription contracts and, in our view, would improve consumer confidence in online purchases taking place in the UK.

¹⁴ BEIS, Reforming Competition and Consumer Policy, July 2021, paragraphs 2.16-2.22 and 2.26-2.28.

Key Message 4: We are supportive of a proportionate approach to regulation that is based on principles and robust evidence and avoids unnecessary duplication and complexity

We understand and recognise the Government's desire and efforts to create the right conditions for healthy competition in UK markets and to ensure that consumers are protected from rip-offs and bad business practices. At the same time, we are mindful of the unique position and specific features of the payments sector in the UK. This includes its strategic importance to the UK economy and existing high levels of competition that have brought about significant innovation and sustained improvement in service quality and customer outcomes. Additionally, there is extensive oversight by multiple regulatory authorities, including the PSR, the FCA, and the Bank of England.

We encourage Government to work closely with industry to identify the most important outcomes and needs of consumers in different sectors. From there onwards, the Government should consider how competition, innovation, and disruption can work to deliver these outcomes in the fastest and most cost-effective way. Only where competition can be proven to have failed should the Government consider alternatives.

We believe this approach will limit intervention and the potential for adverse impacts in industries and sectors of the economy that already deliver sound outcomes for end users and for the wider ecosystem. Furthermore, any reforms should be considered in the context of existing markets and should not result in an adverse impact on functioning policies and business practices.

In this regard, we note that high levels of competition in UK payments are already delivering innovation and positive outcomes for end users. The UK payments industry has already deployed many effective solutions to ensure that person to business payments are as secure as they can be. For instance, Confirmation of Payee has now been introduced – a new way of checking account details to give customers greater assurance that they are sending payments to the intended recipient. The industry has also invested heavily in ensuring that consumers subject to authorised push payment (APP) scams are reimbursed appropriately. Existing regulatory oversight of the sector ensures that there are ongoing opportunities to engage on new developments and respond with appropriate interventions where needed.

We also encourage Government to be mindful of the evolving nature of individual industries and to take this into account in its policy development. We consider that it would be appropriate for the Competition and Markets Authority (CMA) to rely on concurrent sector regulators – who will have sector specific knowledge and insight – to support the implementation of these proposals.

We are confident that the UK will continue to be a world leader across a number of sectors if consumer outcomes are at the heart of future policy strategy. Post-Brexit, the Government and regulators have an even greater opportunity to focus on the outcomes that they wish to see, and in turn, enable industries to compete to develop innovative solutions to best meet these outcomes. We believe that there should be a shift away from prescriptive regulation that can lead to poor consumer outcomes, towards facilitating market participants to compete on a level playing field in a way that always puts consumers first and leads to ever improving customer outcomes.

We look forward to continuing working with Government as it looks to create the right conditions for healthy competition across UK industries and ensure that markets work well for all, building on a model of principles-based regulation that is focused on end-user outcomes.