



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case Nos: 1517/11/7/22 (UM)  
1266/7/7/16

BETWEEN:

**UMBRELLA INTERCHANGE FEE CLAIMANTS**

Claimants

- v -

**UMBRELLA INTERCHANGE FEE DEFENDANTS**

Defendants

(the "Merchant Interchange Fee Umbrella Proceedings")

AND BETWEEN:

**WALTER HUGH MERRICKS CBE**

Class Representative

- v -

- (1) MASTERCARD INCORPORATED**  
**(2) MASTERCARD INTERNATIONAL INCORPORATED**  
**(3) MASTERCARD EUROPE S.P.R.L.**

Defendants

(the "Merricks Collective Proceedings")

-and-

**GPUK LLP**

Non-party

---

**ORDER FOR DISCLOSURE**

---

**UPON** the Tribunal listing a trial to address acquirer and merchant pass on to take place in two parts, with the first part to commence on 18 November 2024 and run until 20 December 2024 and the second part to commence on a date yet to be determined but likely to fall between March and May 2025 (“**Trial 2**”).

**AND UPON** paragraph 12 of the Order of the Tribunal made on 5 December 2023, as amended on 8 December 2023, providing a direction to all parties in the Merchant Interchange Fee Umbrella Proceedings and the Merricks Collective Proceedings to seek the disclosure of certain data from Global Payments.

**AND UPON** the Trial 2 confidentiality ring order made on 28 February 2024 and amended on 21 October 2024 in the Merchant Interchange Fee Umbrella Proceedings (the “**Confidentiality Ring Order**”).

**AND UPON** the Parties (as defined below) and Global Payments having agreed (i) the terms of this Order; (ii) that all information in the Responsive Materials (as defined below) comprises “Trial 2 Confidential Information” as defined in paragraph 1.7 of the Confidentiality Ring Order; and (iii) that to the extent there is any inconsistency between the terms of this Order and the Confidentiality Ring Order, the terms of this Order shall prevail insofar as it affects the Responsive Materials.

**IT IS ORDERED BY CONSENT THAT:**

1. For the purposes of this Order:
  - 1.1 “**Active Umbrella Party**” or “**Active Umbrella Parties**” shall mean the Merchant Interchange Fee Umbrella Proceedings Claimants represented by Scott+Scott UK LLP and Stephenson Harwood LLP, the Primark Claimant, HMRC, the Merchant Interchange Fee Umbrella Proceedings Claimants represented by Wallace LLP, the Allianz Claimants and the Merchant Interchange Fee Umbrella Proceedings Defendants.
  - 1.2 “**Data Request**” shall mean the request for data made by the Parties to Global Payments as set out in Appendix 1 of this Order.
  - 1.3 “**Responsive Materials**” shall mean the datasets to be provided by Global Payments in response to the Data Request.

- 1.4 **“Disclosure Date”** shall mean 14 calendar days after the date on which a sealed copy of this Order is served on Global Payments, or 28 days after that date to the extent such 14-day period falls over any part of 23 December 2024 to 6 January 2025 (inclusive).
- 1.5 **“Party”** or **“Parties”** shall mean any Active Umbrella Party and any party to the Merricks Collective Proceedings which has expressly provided its consent to meet the costs of the provision of the Responsive Materials.
- 1.6 Any Active Umbrella Party or any party to the Merricks Collective Proceedings which has not provided the consent referred to in paragraph 1.5 above is an **“Excluded Party”**.
- 1.7 **“Global Payments”** shall mean GPUK LLP and any affiliated entity.
2. Global Payments shall give disclosure and simultaneously provide inspection of the Responsive Materials on or before the Disclosure Date by providing them securely and electronically to the Parties’ economic expert teams (whether via a nominee on behalf of the Parties or otherwise), who are members of the Confidentiality Ring Order. Upon provision of the Responsive Materials in accordance with this paragraph, the Responsive Materials shall be deemed designated as “Trial 2 Confidential Documents” as defined in paragraph 1.6 of the Confidentiality Ring Order and shall be disclosed into the Trial 2 confidentiality ring in accordance with the Confidentiality Ring Order, including but not limited to the provisions set out in paragraphs 6 and 8 of the Confidentiality Ring Order.
3. No Party shall take any action in respect of the Responsive Materials, including but not limited to disclosure of the Responsive Materials to a person who is not a Permitted Person as defined in paragraph 1.5 of the Confidentiality Ring Order and/or referring to such documents in open court, except with prior written consent from Global Payments, such consent not to be unreasonably withheld. In the event of any disclosure of the Responsive Materials other than in a manner authorised by this Order or the Confidentiality Ring Order, solicitors for the improperly disclosing Party shall notify the improper recipient(s) and the solicitors for Global Payments, and the improperly disclosing Party shall use all reasonable endeavours to prevent further

unauthorised disclosure.

4. The Parties shall provide Global Payments with copies of the confirmations referred to at paragraphs 20 and 21 of the Confidentiality Ring Order, in respect of the destruction of the Responsive Materials.
5. In addition to the obligation set out in paragraph 13 of the Confidentiality Ring Order (“*Addition or removal of Permitted Persons*”), before allowing a Permitted Person to access the Responsive Materials, the Parties shall:
  - 5.1 request permission (not to be unreasonably withheld) from Global Payments in writing to the email addresses [MarkCooper@eversheds-sutherland.com](mailto:MarkCooper@eversheds-sutherland.com) and [RichardBacon@eversheds-sutherland.com](mailto:RichardBacon@eversheds-sutherland.com) for that Permitted Person to be granted access to the Responsive Materials;
  - 5.2 provide to Global Payments in such written request the information in paragraph 13.2 of the Confidentiality Ring Order and a copy of the confidentiality undertaking in Schedule B of the Confidentiality Ring Order signed by the additional Permitted Person and an up-to-date list of the Permitted Persons in Schedule A of the Confidentiality Ring Order; and
  - 5.3 receive written confirmation of Global Payments’ permission that the Permitted Person should be granted access to the Responsive Materials.
6. Save for the addition or removal of Permitted Persons, there shall be no variation of the terms of the Confidentiality Ring Order insofar as it affects the Responsive Materials without the prior written consent of Global Payments, such consent not to be unreasonably withheld.
7. Any Party which wishes to challenge the confidentiality designation of any Responsive Materials shall do so in compliance with paragraph 7 of the Confidentiality Ring Order, and on the basis that for the purposes of that challenge Global Payments is the Trial 2 Designating Party, with written notices as provided for by paragraph 7 of the Confidentiality Ring Order to be sent to [MarkCooper@eversheds-sutherland.com](mailto:MarkCooper@eversheds-sutherland.com) and [RichardBacon@eversheds-sutherland.com](mailto:RichardBacon@eversheds-sutherland.com) and any application further to paragraph 7.4 of the Confidentiality Ring Order to be on written notice to Global Payments.

8. The Parties shall inform Global Payments as soon as reasonably practicable if an Excluded Party attempts to:
  - 8.1 challenge the confidentiality designation of any Responsive Materials;
  - 8.2 vary any term of the Confidentiality Ring Order which applies to the Responsive Materials; or
  - 8.3 add a Permitted Person under the Confidentiality Ring Order such that that Permitted Person may inspect any Responsive Materials.
9. Apart from Global Payments, no other acquirers or their representatives shall have access to the Responsive Materials.
10. The Parties shall be liable to pay Global Payments' reasonable costs and disbursements (including VAT) of and occasioned by: (i) the collation and disclosure of the Responsive Materials, including all correspondence regarding the scope and practicalities of disclosure and preparation for and attendance on calls with the Parties to discuss the same; (ii) settling the terms of and complying with this Order and considering the Confidentiality Ring Order (points (i) and (ii) being subject to a cap of GBP 57,500.00); and (iii) any preparation for and attendance at a hearing (should there be a hearing) arising out of or in connection with this Order (including the instruction of counsel) provided that any request for a hearing by Global Payments has been made reasonably (together, the "**Costs**"). The Costs are to be summarily assessed by the Chair in accordance with paragraph 12 below. The Costs shall be apportioned between the Parties in proportions to be determined by the Tribunal in due course unless otherwise agreed by the Parties.
11. Within 14 days of presentation of a bill by Global Payments to Linklaters LLP (as the "**Paying Party**") in respect of some or all of the Costs (a "**Costs Confirmation**"), the Paying Party shall pay at least 75% of the Costs Confirmation to Global Payments (the "**Initial Costs Payment**"). Any balance of a Costs Confirmation remaining after the Initial Costs Payment shall be paid (i) within 14 days of the Costs Confirmation being agreed by the Parties and Global Payments; or (ii) if not agreed and determined by the Chair in accordance with paragraph 12 below, within 14 days of presentation of a bill by Global Payments reflecting such determination.

12. If, after the Initial Cost Payment, the balance of a Costs Confirmation is disputed by a Party and cannot be agreed between the Parties and Global Payments, then a Party (to be determined between the Parties) shall apply to the Tribunal (and give notice to Global Payments of the making of the application) within 28 days after the Initial Cost Payment, unless Global Payments agrees in writing to extend such time period (such agreement not to be unreasonably withheld), for the balance to be paid at a value summarily assessed by the Chair on the papers (the “**Determination Application**”). The Determination Application will therein request that: (i) Global Payments shall have liberty to file a reply to any Determination Application within seven days of the date of the making of the Determination Application; and (ii) any determination of the Determination Application be made no less than 14 days after the Determination Application is made.
13. If a Party makes a confidentiality challenge to the designation of any Responsive Materials under paragraph 7 of the Confidentiality Ring Order, then that Party must indemnify and hold Global Payments harmless against any costs or liabilities arising out of or in connection with that challenge.
14. Each Party agrees to hold Global Payments harmless against any reasonable costs or liabilities arising:
  - 14.1 out of a confidentiality challenge to the designation of any Responsive Materials brought by an Excluded Party under paragraph 7 of the Confidentiality Ring Order; or
  - 14.2 without limiting the above, out of any costs award made in connection with any challenge to the designation of any Responsive Materials by an Excluded Party under paragraph 7 of the Confidentiality Ring Order which is adverse to Global Payments.
15. The Parties’ liability under paragraph 14.2 is subject to:
  - 15.1 Global Payments acting reasonably in connection with its defence of any challenge to the designation of any Responsive Materials; and
  - 15.2 In the case of a challenge to the designation of any Responsive Materials by

an Excluded Party, Global Payments notifying the Parties in writing of any adverse costs award within 14 days of the award being granted.

16. The Parties will be jointly liable for any amounts accrued under paragraph 14.1 and in respect of any challenge to the designation of any Responsive Materials by an Excluded Party under paragraph 14.2.
17. In the event that any of the Parties reach a settlement of some or all of their claims after the date of this Order, those Parties will remain liable for their share of the Costs or any liabilities arising out of paragraph 11 or 14.

## **COSTS**

18. Save as provided for in paragraph 11 above, the costs of obtaining disclosure of the Responsive Materials shall be costs in the case of the Merchant Interchange Fee Umbrella Proceedings and Merricks Collective Proceedings.

## **OTHER**

19. Liberty to apply (including but not limited to Global Payments applying to extend the deadline in paragraph 1.4 above).

**Mr Ben Tidswell**  
Chair of the Competition Appeal Tribunal

Made: 8 November 2024  
Drawn: 8 November 2024

## **Appendix 1**

### **Data Request Schedule**

#### **Schedule**

The parties request three datasets:

- First, a monthly merchant-by-merchant dataset from 2018 onwards (or the earliest that the data could be provided with the corresponding demographic data including the type of contract where the merchant characteristics are available); and
- Second, a monthly merchant-by-merchant dataset from 2018 onwards, please provide the MSC and MIF data that is available, at the most granular level of category of transactions set out below; and
- Third, a monthly merchant-by-merchant dataset from 2018 onwards, please provide the scheme fee charge and the cost to Global Payments of scheme fees data that is available, at the most granular level of category of transactions set out below.

For each dataset, to the extent available, please provide:

1. Merchant characteristics. We understand that Global Payments does not hold historical information in relation to both merchants' demographics and contracts, and no information prior to 2018. As such, the below requests relate to merchants' current demographics and contracts
  - a. Merchant ID number and Customer ID number
  - b. Merchant country or Merchant Location Code
  - c. Merchant first served date (to extent available)
  - d. Merchant contract end date
  - e. Schemes/ type of cards/type of transactions covered by the contract
  - f. Merchant card turnover (to the extent available)
  - g. Merchant Category Code (MCC)
  - h. Global Payments "group" classification applied internally to MCCs
  - i. Contract type (e.g., fully blended/MIF++/other)
2. Monthly MSC data relating to transaction processing fees along with interchange cost recovery, along with the cost of MIF from 2018 onwards in relation to Visa and Mastercard transactions, provided separately for each category of transactions that might incur a different MSC rate. In this context MSC rate should be taken to mean the overall MSC rate paid for a particular category of transaction. This may consist of a 'headline' MSC rate, or a 'headline' rate plus an Additional



Transaction Fee (ATF). Part (2a) below provides a (non-exhaustive) list of transaction categories that may attract a different MSC rate (headline + ATF). Part (2b) outlines the specific MSCs and MIFs data required.

- a. Categories of transactions:
    - i. Card scheme (Mastercard, Visa etc)
    - ii. Card type (credit, debit, purchasing, prepaid)
    - iii. Cardholder type (commercial, consumer (potentially further split into corporate vs. fleet vs. purchasing vs. business/professional if these incur different rates of MSCs))
    - iv. Card / interchange program (e.g. Mastercard World, Mastercard World Elite, etc.)
    - v. Issuer / cardholder region (domestic, European, inter-regional)
    - vi. Card present / card not present
    - vii. Secure / non-secure
    - viii. Any other categories which incur different MSC rates per transaction
  - b. For all merchants, data for each of the categories in 2a above:
    - i. the MSC per transaction, as specified in the Merchant Service Agreement for the particular category of transactions (which may vary by merchant) (e.g. 2% for Mastercard domestic consumer credit cards)
    - ii. Value of MSCs for each category in each month (£)
    - iii. Value of transactions for the particular category of transactions in that month
    - iv. Number of transactions for the particular category of transactions in that month
    - v. Value of MIF charges for the particular category of transactions in that month
3. Value of scheme fee charges for the particular category of transactions in that monthly scheme fee data relating to the charging of scheme fees, along with the cost of scheme fee data from 2018 onwards in relation to Visa and Mastercard transactions, provided separately for each category of transactions that might incur a different scheme fee rate. In this context, the scheme fee rate should be taken to mean the overall scheme fee rate paid for a particular category of scheme. Part (3a) below provides a (non- exhaustive) list of transaction categories that may attract a different scheme fee rate. Part (3b) outlines the specific scheme fees and scheme data required.
- a. Categories of transactions:
    - i. Card scheme (Mastercard, Visa etc)

- ii. Card type (credit, debit)
  - iii. Issuer / cardholder region (domestic, intra-EEA, inter-regional)
  - iv. Card present / card not present
- b. For all merchants, monthly MSC scheme fees for each of the categories in 3a above:
- i. the scheme fee per transaction, as specified in the Merchant Service Agreement for the particular category of transactions (which may vary by merchant) (e.g. 2% for Mastercard domestic credit cards)
  - ii. Value of scheme fees for each category in each month (£)
  - iii. Value of transactions for the particular category of transactions in that month
  - iv. Number of transactions for the particular category of transactions in that month
  - v. Value of scheme fees paid for the particular category of transactions in that month