



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1517/11/7/2 (UM)
1266/7/7/16

BETWEEN:

THE UMBRELLA INTERCHANGE FEE CLAIMANTS

- v -

THE UMBRELLA INTERCHANGE FEE DEFENDANTS

(the “Merchant Interchange Fee Umbrella Proceedings”)

AND BETWEEN:

WALTER HUGH MERRICKS CBE

Class Representative

(the “Merricks Class Representative”)

- v -

(1) MASTERCARD INCORPORATED

(2) MASTERCARD INTERNATIONAL INCORPORATED

(3) MASTERCARD EUROPE S.P.R.L

The Merricks Defendants

(the “Merricks Collective Proceedings”)

(together, the “Proceedings”)

-and-

Worldpay (UK) Limited

Non-party

DISCLOSURE ORDER

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 likely to run for five four-day weeks until 20 December 2024 and the second part to commence on a date 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 Worldpay.

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 and Merricks Collective Proceedings (the “**Trial 2 Confidentiality Ring**”) (the “**Trial 2 Confidentiality Ring Order**”).

AND UPON the Worldpay confidentiality ring order made on 14 November 2024 in the Merchant Interchange Fee Umbrella Proceedings and Merricks Collective Proceedings (the “**Worldpay Confidentiality Ring Order**”) (the “**Worldpay Confidentiality Ring**”).

AND UPON the Parties and Worldpay having agreed the terms of this Order.

IT IS ORDERED BY CONSENT THAT:

1. For the purposes of this Order:
 - 1.1 “**Relevant Active Umbrella Party**” or “**Relevant Active Umbrella Parties**” shall mean the Merchant Interchange Umbrella Proceedings Claimants represented by Scott+Scott UK LLP and Stephenson Harwood LLP and the Merchant Interchange Umbrella Proceedings Defendants.
 - 1.2 “**Data Request**” shall mean the request for data made by the Parties to Worldpay as set out in Appendix 1 of this Order.
 - 1.3 “**Disclosure Date**” shall mean 5 calendar days from the date of this Order.
 - 1.4 “**Non-Confidential Work Product**” shall mean work product and documents that contain summaries or the results of the analysis of Worldpay Confidential Information or any Secondary Work Product, but which do not reveal the content of the underlying Responsive Data and do not, in the reasonable opinion of the Party that has created the Non-Confidential Work Product, enable the content of the underlying Responsive Data to be revealed, for example as a result of redaction, anonymisation, or aggregation with other acquirer data.

- 1.5 “**Party**” or “**Parties**” shall mean the Relevant Active Umbrella Parties and the parties to the Merricks Collective Proceedings.
- 1.6 “**Responsive Data**” shall mean the raw data provided by Worldpay in response to the request described in Appendix 1 of this Order.
- 1.7 “**Trial 2 Confidential Documents**” are as defined in paragraph 1.6 of the Trial 2 Confidentiality Ring Order.
- 1.8 “**Trial 2 Permitted Persons**” are as defined by paragraph 1.5 of the Trial 2 Confidentiality Ring Order.
- 1.9 “**Secondary Work Product**” shall mean work product and documents prepared by Worldpay Permitted Persons that summarise or analyse Worldpay Confidential Information in a way that reproduces or reflects the content of Worldpay Confidential Information. Any notes, copies, reports, submissions or other documents that reproduce or reflect the content of Worldpay Confidential Information are themselves Secondary Work Product.
- 1.10 “**Worldpay**” shall mean Worldpay (UK) Limited and any affiliated entity.
- 1.11 “**Worldpay Confidential Information**” means any part of the Responsive Data.
- 1.12 “**Worldpay Permitted Persons**” are as defined by paragraph 1.12 of the Worldpay Confidentiality Ring Order.

Disclosure of the Responsive Data

2. Worldpay shall give disclosure and simultaneously provide inspection of the Responsive Data on or before the Disclosure Date by providing them electronically through a secure file transfer system to members of each of the Parties’ economic expert teams who are Worldpay Permitted Persons in accordance with the terms of the Worldpay Confidentiality Ring Order.
3. The Parties shall treat the Responsive Data in the same manner as Worldpay Confidential Information from the point at which the Responsive Data is provided to them pursuant to paragraph 2 of this Order. Each Party shall use reasonable endeavours to ensure that their expert teams handle the Responsive Data in accordance with the Confidential Data Transfer Protocol at Confidential Appendix 2.

Secondary Work Product and Non-Confidential Work Product

4. Documents which meet the definition of Secondary Work Product in this Order may be shared

between Worldpay Permitted Persons and Trial 2 Permitted Persons provided the WorldPay Permitted Person designates such Secondary Work Product as Trial 2 Confidential Documents in accordance with the Trial 2 Confidentiality Ring Order. Neither Worldpay Permitted Persons or Trial 2 Permitted Persons shall share such Secondary Work Product with anyone who is not admitted to either the Worldpay Confidentiality Ring Order or the Trial 2 Confidentiality Ring Order (except to the extent it does not reveal the content of Worldpay Confidential Information in accordance with paragraph 4.3 of the Worldpay Confidentiality Ring Order). For the avoidance of doubt, the Parties will at all times treat Secondary Work Product as Trial 2 Confidential Documents.

5. Non-Confidential Work Product may be shared with persons outside the Worldpay Confidentiality Ring and/or the Trial 2 Confidentiality Ring.

Costs

6. The Parties shall be liable to pay Worldpay's reasonable costs and disbursements (including VAT) of and occasioned by the Data Request, including but not limited to: (i) the extraction, review, production and disclosure of the Responsive Data, including all correspondence regarding the scope and practicalities of disclosure and preparation for and attendance on calls with the Parties and with Worldpay's advisors to discuss the same; (ii) settling the terms of and complying with this Order and the Worldpay Confidentiality Ring Order; and (iii) any preparation for and attendance at a hearing (should there be a hearing) arising out of or in connection with this Order or the Confidentiality Ring Order (including the instruction of counsel).
7. Subject to paragraphs 8 and 9 below, Worldpay's reasonable costs and disbursements (including VAT) shall be paid in full by the Parties within 28 days of written confirmation by Worldpay of the relevant amount (the "**Cost Confirmation**").
8. Prior to the Disclosure Date, the Parties shall nominate one Party to liaise with Worldpay and that Party shall pay in full Worldpay's reasonable costs and disbursements (including VAT) on behalf of all Parties.
9. If the amount of Worldpay's costs in the Costs Confirmation is disputed, the Parties (via the Party nominated pursuant to paragraph 8 above) shall pay 50% of those costs (including VAT) to Worldpay within 28 days of the Cost Confirmation and apply to the Tribunal within 14 days of such payment and on notice to Worldpay (the "**Determination Application**") for the balance to be summarily assessed by the President on the papers no earlier than 14 days from the date of filing of the Determination Application. Worldpay shall have liberty to file

a reply to any Determination Application.

10. The costs paid in accordance with paragraphs 7 to 9 above shall be apportioned between the Parties in proportions to be determined by the Tribunal in due course unless agreed by the Parties.
11. 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 determined in accordance with paragraphs 6-10 above.
12. Save as provided for in paragraph 7 above, the costs of obtaining disclosure of the Responsive Data shall be costs in the case of the Merchant Interchange Fee Umbrella Proceedings and Merricks Collective Proceedings.

OTHER

13. Liberty to apply.

Mr Ben Tidswell
Chair of the Competition Appeal Tribunal

Made: 14 November 2024
Drawn: 14 November 2024

Appendix 1 Data Request Schedule

Schedule of Data Requested

The parties request a monthly merchant-by-merchant dataset that contains the following:

1. Merchant characteristics.
 - a. A unique identifier for each merchant
 - b. Merchant country or location
 - c. Merchant first served date
 - d. Merchant contract start date (to the extent available, please also provide start dates and end dates whenever a contract changed and/or the duration of a contract)
 - e. Schemes/type of cards/type of transactions covered by the contract
 - f. Merchant total and card turnover
 - g. Merchant Category Code (MCC)
 - h. Contract/Invoice type (including all different types, e.g. different levels of blending/IF+/IF++/other)

2. Monthly MSC data, MIF and scheme fee data in relation to Visa and Mastercard transactions from at least January 2019, provided separately for each category of transactions that might incur a different MSC rate as specified in the Merchant Fee Data illustrative example provided by Worldpay on 21 March 2024.¹ 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, MIFs and scheme data required.
 - a. Categories of transactions:
 - i. Card scheme (e.g Mastercard, Visa)
 - ii. Card type (e.g. credit, debit, purchasing, prepaid)
 - iii. Cardholder type (e.g. commercial vs. consumer, potentially further split into corporate vs. fleet vs. purchasing vs. business/professional if these incur different rates of MSCs)
 - iv. Card brand / interchange program (e.g. Mastercard World, Mastercard World Elite, etc.)
 - v. Issuer / cardholder region (e.g. domestic, intra-EEA, inter-regional)
 - vi. Card present / card not present
 - vii. E-commerce secure / non-secure
 - viii. Any other categories which incur different MSC rates per transaction

 - b. For all merchants, monthly MSC, MIF and scheme fees for each of the categories in 2a above:
 - i. Value of MSCs for each category in each month (£)
 - ii. Value of sales and refund transactions for the particular category of transactions in that month
 - iii. Number of sales and refund transactions for the particular category of transactions in that month
 - iv. Value of MIF charges for the particular category of transactions in that month

¹ The Parties understand from Worldpay that fully categorised data can only be provided separately for MSC and MIF data, but not for scheme fee data.

- v. Value of scheme or processing fees paid for the particular category of transactions in that month