

Antitrust: Commission fines Mastercard €570 million for obstructing merchants' access to cross-border card payment services

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *“European consumers use payment cards every day, when they buy food or clothes or make purchases online. By preventing merchants from shopping around for better conditions offered by banks in other Member States, Mastercard’s rules artificially raised the costs of card payments, harming consumers and retailers in the EU.”*

Mastercard is the second largest card scheme in the European Economic Area (EEA) in terms of consumer card issuing and value of transactions. Under the MasterCard scheme, banks offer card payments-related services under common card brands, Mastercard and Maestro. Mastercard acts as a platform through which issuing banks provide cardholders with payment cards, ensure the completion of the card payment transaction and transfer funds to the retailer’s bank.

Card payments play a key role in the Single Market, both for domestic transactions and for payments across borders or over the internet. European consumers and businesses make more than half of their non-cash payments through cards.

When a consumer uses a debit or credit card in a shop or online, the bank of the retailer (the “acquiring bank”) pays a fee called an “interchange fee” to the cardholder’s bank (the “issuing bank”). The acquiring bank passes this fee on to the retailer who includes it, like any other cost, in the final prices for all consumers, even those who do not use cards.

Mastercard’s rules obliged acquiring banks to apply the interchange fees of the country where the retailer was located. Prior to 9 December 2015, when the [Interchange Fee Regulation](#) introduced caps, interchange fees varied considerably from one country to another in the EEA. As a result, retailers in high-interchange fee countries could not benefit from lower interchange fees offered by an acquiring bank located in another Member State.

In April 2013, the Commission [opened a formal antitrust investigation](#) against Mastercard to assess whether these rules on ‘cross-border acquiring’ were in breach of EU antitrust rules. In July 2015, the Commission issued a [Statement of Objections](#).

The Commission investigation found that because of Mastercard’s cross-border acquiring rules retailers paid more in bank services to receive card payments than if they had been free to shop around for lower-priced services. This led to higher prices for retailers and consumers, to limited cross-border

competition and to an artificial segmentation of the Single Market.

On this basis, the Commission concluded that Mastercard's rules prevented retailers from benefitting from lower fees and restricted competition between banks cross border, in breach of EU antitrust rules. The infringement ended when Mastercard amended its rules in view of the entry into force of the Interchange Fee Regulation.

As a result, the Commission decided to impose a fine on Mastercard.



Cooperation with Mastercard

Mastercard cooperated with the Commission by acknowledging the facts and the infringements of EU competition rules.

The Commission granted Mastercard a 10% fine reduction in return for this cooperation. Further information on this type of cooperation can be found on the Commission's [Competition](#) website.

Fines

The fine was set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [IP/06/857](#) release and [MEMO/06/256](#)). In setting the level of fines, the Commission took into account several factors, including the value of sales relating to the infringement, the gravity of the infringement and its duration, as well as the fact that Mastercard cooperated with the Commission during the investigation.

The fine imposed by the Commission on Mastercard amounts to €570 566 000.

Background

The Commission concluded that Mastercard's rules until 9 December 2015 infringed [Article 101](#) of the Treaty on the Functioning of the European Union (TFEU), which prohibits agreements between companies or decisions by an association of undertakings that prevent, restrict or distort competition

within the EU's Single Market.

The Commission takes the view that Mastercard and its licensees (who issue Mastercard and branded cards to cardholders or acquire transactions with those cards for retailers) together form an association of undertakings.

More information on this investigation is available on the Commission's [competition](#) website in the public [case register](#) under the case number [AT.40049](#).

Interchange Fee Regulation

As of 9 December 2015, the [Interchange Fee Regulation](#) capped interchange fees in the European Economic Area (EEA) to a maximum of 0.2% of the transaction's value for debit cards and 0.3% of the transaction's value for credit cards. Before that, these fees varied considerably from one country to another in the EEA.

Since the entry into force of the Regulation, retailers pay a reduced domestic or cross-border interchange fee, which brings retailers' costs down considerably.

Ongoing investigation concerning Mastercard

In the Statement of Objections addressed to Mastercard in 2015, the Commission also outlined its preliminary view that Mastercard's interchange fees applied to payments made in EEA with consumer debit and credit cards issued outside the EEA ("Inter-regional MIFs") may breach EU antitrust rules.

The Commission is concerned that such fees applied by Mastercard may anti-competitively increase prices for European retailers accepting payments from cards issued outside the EEA and in turn lead to higher prices for consumer goods and services in the EEA. That part of the case is still pending.

In December 2018, [the Commission invited comments](#) from interested parties on commitments offered separately by Visa and Mastercard to address the Commission's competition concerns relating to inter-regional interchange fees for card payment transactions.

Previous Commission actions

Today's decision is the latest in a series of Commission's actions reducing card fees for merchants:

- In [December 2007](#), the Commission found that Mastercard's interchange fees on cross-border transactions in the EEA (e.g. when a Belgian citizen uses his card to pay in a shop in France) restrict competition between banks. In September 2014, the Commission's findings were [confirmed by the Court of Justice](#).

- In 2009, to comply with the Commission's 2007 decision, Mastercard reduced the (intra-EEA) cross-border interchange fees applied by its member banks to maximum weighted averages of 0.2% for debit cards and 0.3% for credit cards.
- In [December 2010](#) and [February 2014](#), the Commission also adopted decisions making legally binding commitments offered by Visa Europe (the former Visa scheme association of banks in Europe) to cap at the same levels (0.2% and 0.3%) the interchange fees for all intra-EEA debit and credit card transactions. The 2014 commitments also allowed acquirers to apply a reduced cross-border interchange fee (0.2% for debit and 0.3% for credit) for cross-border clients.
- In April 2015, the EU's Council of Ministers and the European Parliament adopted the [Interchange Fee Regulation](#), which from 9 December 2015 capped interchange fees for cards issued and used in Europe (maximum of 0.2% for debit cards and 0.3% for credit cards). The Interchange Fee Regulation established a level playing field for the card payments in the intra-EEA transactions market as a whole. However, the caps of the Interchange Fee Regulation do not apply to *inter-regional* transactions (i.e. those involving cards issued outside the EEA), as the Regulation does not apply to cards issued outside the EEA.

Action for damages

Any person or company affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which Member States had to transpose into their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available [here](#).

Whistleblower tool

The Commission has set up a tool to make it easier for individuals to alert it about anti-competitive behaviour while maintaining their anonymity. The tool protects whistleblowers' anonymity through a specifically-designed encrypted messaging system that allows two way communications. The tool is accessible via this [link](#).