

5 The views of third parties

5.1. In this chapter we summarise the main points in the evidence of third parties provided direct to the Commission (see also Appendix 5.1), that is, by trade associations and other bodies representing traders, and some individual traders (referred to collectively as 'traders'); the Banking, Insurance and Finance Union (BIFU), the main trade union involved; the National Consumer Council (NCC) and the Consumers' Association (CA), representing the interests of consumers; and some suppliers of charge card services. The chapter also refers to the results of two surveys carried out for the Commission, one of traders and the other of consumers, to ascertain views on some issues which arose during the inquiry. We also set out some findings from a survey of consumers carried out for the OFT in 1987/88, and summarise the views of members of the public, from letters sent to the Commission. The detailed evidence is contained in appendices to the report, to which we refer. Because much of the evidence of traders was on similar lines, views have not for the most part been attributed to individual organisations or traders in the fuller statement of their evidence at Appendix 5.1 (paragraphs 2 to 25). A full list of third parties who gave evidence, including those who attended hearings at the Commission, is at Appendix 1.2.

The views of traders

MSCs

5.2. Traders pointed out that the use of credit cards had grown considerably since the 1980 report. They argued that in those trade sectors where credit cards were now widely accepted, traders were concerned that they would lose business to competitors if they refused to accept credit cards, rather than that they would obtain additional business if they accepted credit cards. The fear of losing business; the fact that traders had had to deal in Great Britain with only one Visa and one Access merchant acquirer (Barclays and the JCCC respectively) offering similar MSCs and other terms and conditions; the limited bargaining power of even the largest individual traders; and the absence of alternative choices of credit cards, had led to traders having to pay MSCs which were too high (though they had declined). Lloyds' entry in March 1989 into the market as a Visa/MasterCard/Eurocard/Access merchant acquirer was welcomed by the Retail Consortium as marking the end of the Visa and Access monopolies in merchant acquisition, and, since traders now had the opportunity to negotiate terms with more than one supplier of each scheme, that would ensure that MSCs would continue to decline. The Retail Consortium still wanted to see the abolition of the interchange fee paid by merchant acquirers to card issuers, the removal of the No Discrimination rule, and to have separate agreements for credit and debit cards, all of which it had suggested in its evidence to the Commission.

5.3. Traders argued that the MSCs were well above the costs of the credit card companies for processing transactions; any addition to those costs to cover fraud or bad debts would be small. Traders interpreted the passing of part of MSC income to card issuers as meaning that they were paying for the cost of interest-free credit, for which, they argued, cardholders themselves should pay.

5.4. Traders argued that the benefits which the credit card operators claimed were obtained by acceptance of credit cards were exaggerated.

5.5. They suggested that MSCs should be reduced to levels near to those which they paid to the banks for cash, cheque and debit card transactions. Other suggestions made were that the system of

charging MSCs should be open, eg by publishing a scale of tariffs; and that the passing on of an interchange fee from the merchant acquirer to the card issuer should be prohibited.

The views of all parties on the No Discrimination rule

Traders who gave evidence directly

5.6. Traders argued that because the value of the benefits which they obtained did not compensate them for the MSCs paid, the MSCs worked through into prices, where competitive conditions allowed: in such circumstances, credit card customers were being subsidised by other customers. Most of the traders who gave evidence directly to the Commission proposed that the No Discrimination rule should be abolished, and that traders should be free to decide on the prices to be charged to different customers.

5.7. However, it was unlikely that the majority of traders would charge different prices as between credit card and other customers. Some traders were concerned about the practical difficulties of charging different prices without confusing customers. Others were not concerned about that, and drew attention to cases in which differential pricing worked well, such as for petrol sales in the USA.

The views of traders obtained from a telephone survey

5.8. We commissioned a telephone survey of traders which was carried out during the summer of 1988, to obtain traders' views on the benefits of accepting credit cards, and in particular on the No Discrimination rule. Responses were obtained from 1,185 traders. Respondents were asked, unprompted, about the benefits they saw in accepting credit cards. The results are summarised in Appendix 5.2. Over half (53 per cent) gave 'generating extra business' as a benefit. The next most common unprompted response that credit cards ensured guaranteed payment was given by 13 per cent of respondents. When prompted about particular benefits, both the generation of extra business and guaranteed payment were accepted by more than 70 per cent of respondents. Over half of respondents regarded those benefits as of major importance. The survey therefore produced a more favourable view of the benefits of accepting credit cards than that put forward by traders who gave evidence direct to the Commission.

5.9. Few traders saw advantages from the No Discrimination rule to their customers or themselves. Just under 50 per cent of respondents said they saw no disadvantage arising from it. 31 per cent linked any disadvantage from the rule to the level of MSCs which, they argued, cut into profit margins.

5.10. 26 per cent of all respondents thought that the rule should be removed; 50 per cent that it should be retained; 24 per cent said that they did not mind if the rule was removed or retained. A more detailed analysis of the response showed greater support for retention of the rule amongst larger traders. Traders were also asked whether removal of the rule would have any effect on the way they priced any of their goods or services. 15 per cent replied that it would have an effect, 10 per cent that it might and 72 per cent that it would have no effect on their pricing. Those who thought that removing the rule would or might affect their pricing gave estimates of up to about 5 per cent as the difference in price between cash and credit card sales that might apply. While the survey showed that 50 per cent of traders were in favour of retaining the rule a greater measure of acceptance than implied in the evidence given directly by traders to the Commission all the evidence from traders was to the effect that only a minority would be likely to charge different prices as between credit card and other customers.

The Department of Trade and Industry (DTI)

5.11. DTI (which has departmental responsibility for Part III of the Consumer Protection Act 1987) told us that, if the occasion arose, it thought guidance on differential pricing would need to be

provided to traders, since the Code of Practice for Misleading Price Indications as it stood did not cover the question of different prices for different methods of payment.

Charge card issuers

5.12. One charge card issuer said that it no longer applied the rule to traders, but continued to object to surcharging, because traders obtained other benefits from accepting its cards. It thought that traders should be free to offer discounts for cash. Another charge card issuer told us that it required traders to charge the same price to its card customers as to others. It doubted whether the removal of the rule would lead to much change.

The British Tourist Authority

5.13. The British Tourist Authority (in a letter to Barclays, passed on to the Commission) opposed the removal of the No Discrimination rule. It referred to its view, given at the time of the previous inquiry, that overseas tourists would be confused and irritated if different prices were charged as between credit card and cash purchases. It pointed out that credit cards were now more widely used than in 1980.

The views of the NCC, CA and individual consumers

5.14. The NCC argued that cash and cheque customers were subsidising credit card customers, and that traders should therefore be able to offer discounts for cash or cheque purchases. A survey of consumer attitudes which Marplan had undertaken for it showed that a majority of consumers were in favour of such discounts being available. The NCC felt that customers would react less favourably to surcharging on credit card purchases. It felt that there was less cause for concern about customers being confused or misled by differential pricing than at the time of the previous inquiry, because Part III of the Consumer Protection Act now made it a criminal offence to publish a misleading price.

5.15. CA was aware of no evidence to suggest that MSCs led to higher prices in the shops. It regarded the No Discrimination rule as anti-competitive, but thought that it did not appear to harm consumer interests. In principle traders should be free to charge prices reflecting the cost of goods and services provided: in practice, CA thought few traders would adopt differential pricing because it would cause confusion and loss of goodwill among their customers. If the rule were removed, consumers should be told well in advance of differential pricing arrangements.

5.16. We also sought the views of consumers on the No Discrimination rule, through the inclusion of questions in one of NOP Market Research Ltd's regular surveys. The results are summarised in Appendix 5.3. 1,643 respondents were asked if they were in favour of traders being free to charge a higher price for Access and Visa purchases and a lower price for cash or cheque sales. 24 per cent were in favour of traders having this freedom, 47 per cent were not in favour and the remaining 29 per cent said they did not know or did not mind. Amongst respondents holding either an Access or Visa card (38 per cent of the total) 72 per cent were in favour of traders not being allowed to charge different prices.

The views of BIFU

5.17. BIFU's views are set out more fully in Appendix 5.1, paragraphs 36 to 55. BIFU's principal concern was with the implications which the inquiry might have for employment in the main credit card operations, especially at Southend (JCCC) and Northampton (Barclaycard). Both towns had unemployment rates higher than the regional averages, while Barclaycard's other centres were in areas of above-average unemployment nationally. Very high proportions of the workforces were females working part-time, who would find it impracticable to travel long distances to find alternative work, while the majority of staff were under 35 years of age. BIFU argued that any restrictions on

Barclaycard's and the JCCC's operations would have a particular effect on those components of the two workforces.

The general views of the NCC and CA, representing the interests of consumers

5.18. The evidence of the NCC and CA (see Appendix 5.1, paragraphs 56 to 83) was similar on several of the main issues covered. They acknowledged that credit cards provided an attractive and convenient form of borrowing. They argued that credit card interest rates were high by comparison with base rates. That, and the close similarity between the Access and Visa banks, on interest rates and on the timing of changes in them, all indicated a lack of competition. Some new entrants were charging lower rates, thus providing some increase in competition so far as more affluent or creditworthy cardholders were concerned. Both bodies acknowledged that consumers found it difficult to understand APRs and were often indifferent to interest rates, thinking more in terms of amounts to be repaid. The NCC could see no reasons for thinking that competition on interest rates would generally increase. Both bodies suggested that, if it did not, the imposition of ceilings on interest rates should be considered.

5.19. CA said that it was difficult to compare the interest rates and other terms for credit cards with those offered for other forms of credit, such as overdrafts and personal loans, particularly because of the interest-free period on credit cards.

5.20. Both bodies referred also to the similarity in charging structure for cardholders as between the Access and Visa banks, eg the interest-free period was the same, and no charges for the card were made (such charges began to be made early in 1989 but not by major suppliers); this contrasted with the position in other countries, especially the USA. Competition on these aspects needed to be developed. The NCC argued that, if charges for cards were introduced, interest rates should be reduced; a majority of respondents in its Marplan survey had said they were in favour of such a change.

5.21. Both the NCC and CA acknowledged the attractiveness of the interest-free period to cardholders; the NCC was against removing or reducing it. Both thought that those cardholders who paid no interest were being subsidised by those who did.

5.22. Both the NCC and CA commented that the non-price competition which had developed between the banks (on, for example, gift points schemes, free insurance, and discounts for holidays) was to be expected, given the lack of competition on prices and charging structures for cardholders. They argued that it was impossible for cardholders to know whether they were getting value for money from such offers.

The views of members of the public

5.23. In the early period of the inquiry, the Commission received over 200 letters from members of the public. About one-third of correspondents thought that credit card interest rates were too high. Over 30 thought that traders should be able to offer discounts for cash or cheques, but 14 others thought that credit card customers should not be charged different prices from other customers. Comments were also made on a wide variety of other aspects of credit card services by smaller numbers of correspondents.

5.24. In November 1988 speculative reports appeared in some newspapers that the Commission intended to recommend that interest-free credit should no longer be made available to credit cardholders; readers were invited to give their views to the newspapers, or direct to the Commission. We received over 300 letters from members of the public. Virtually all said that interest-free credit should continue to be available. The main points made were that those cardholders who paid interest took that decision for themselves; it should not be allowed to affect those who managed their affairs differently. Older people in particular appreciated not having to carry cash or cheques because of the risk of being mugged. The ability to pay several bills through the one monthly credit card account

was also valued. One newspaper reported that 6,661 of its readers had told it that they were opposed to the reported intention of the Commission, and only 208 in favour.

Views of consumers, as reflected in the OFT's survey of consumers

5.25. A study of the use of credit by consumers was commissioned by the OFT, and completed in May 1988. Some of its results were of interest so far as credit cards are concerned; those are summarised in Appendix 5.4. Credit cards emerged as second only to mortgages as a source of personal borrowing. Their main attractions to consumers were convenience of use, and freedom to repay different amounts. By far the most frequently mentioned disadvantage was the encouragement of impulse buying. Credit cards were the most frequently mentioned form of borrowing on which consumers had had problems in meeting payments.

Evidence from the suppliers of charge card services (see Appendix 5.1, paragraphs 84 to 99)

5.26. Since issuers of charge cards did not provide extended credit, they needed to obtain the greater part of their income from traders, whereas they understood that issuers of credit cards obtained the greater part of their income in interest payments from cardholders, and charged lower MSCs to traders. The credit card companies had therefore been able to create larger trader networks. Nevertheless, much effort had gone into extending the coverage of charge card trader outlets, to compete more effectively against credit cards. One reason given to the Commission to justify the higher MSCs for charge cards was that charge cardholders spent more on average than Access and Visa cardholders.

5.27. Charge card issuers also commented that many Access and Visa credit cardholders paid no interest, thus using their credit cards as charge cards. However, no charges were made for Access and Visa credit cards in the United Kingdom; that was an exception to the general practice world-wide. This, and the ability to charge lower MSCs, were considered to be distortions of competition.

Other evidence

5.28. Mr Anthony Nelson MP wrote to the Commission about several matters. He opposed the capping or restricting of credit card interest rates, which he argued should be left to competition, which was likely to increase with the growth of duality and the move towards EftPos. He argued that the placing of onerous restrictions on card issuers would be prejudicial to the prospects of success of the British financial services industry in Europe, with the advent of the unified market in 1992. He referred to public concern at the extent to which people were encouraged to apply for credit cards and to incur liabilities beyond their means, and suggested that there should be standard procedures for checking creditworthiness, as well as guidance and warning to prospective cardholders about the liabilities which they might incur.