



CONSUMER COUNCIL OF FIJI

**A Submission to the Reserve Bank of Fiji on
Credit Card Surcharges**

May 2012

1.0 INTRODUCTION

The Consumer Council of Fiji (hereinafter referred to as ‘the Council) is the representative of the largest socio-economic group, i.e. consumers. As a statutory body established under the *Consumer Council of Fiji of the Act 1976 (CCOF Act)*, the Council is mandated by law to represent consumer or members’ views concerns and issues. The Council is legally bound to ensure that the consumers are not marginalized by economic policies. Amongst other functions, the Council is empowered (under Section 6 of the Act) to: ... **“make representations to the Government or to any other person/organization on any issues affecting the interests of consumers.”** The Council mainly functions as an independent watchdog to create a fair and just delivery of goods and services in the marketplace. The Council’s insight into consumer needs and issues is a powerful tool for influencing decision-makers to bring about change.¹

1.1 Consumers and Financial Services

The Consumer Council has in the past five years stepped its campaigns for consumer protection in financial services. Consumers are facing difficulties with the rapid pace of financial innovation, the growing complexity of financial products, and the increasing financial risks and responsibilities associated with new products and services. The Council’s campaign aims to increase consumers’ access to fair and competitive financial markets where high standards of disclosure, transparency, redress and choice are promoted and upheld. One key focus area has been on fees and charges imposed by financial service providers and third parties. In 2011, the Council published its report *Banking Services: From Consumers’ Perspective* where it highlighted how consumers were besieged by an excessive number of fees and charges. The Council is of the view that too many fees and charges imposed by financial institutions and third parties reduce consumer access to financial services and products, and constraint consumers from benefitting from advances in technology. Any fees or charges that are imposed unfairly and of which the consumer has not consented to when subscribing to a financial service or product should be removed and outlawed.

2.0 Reserve Bank of Fiji Credit Surcharges Review

The Consumer Council welcomes the RBF’s initiative to look into credit card surcharges which is long overdue. In January 2012 the RBF had announced the removal of certain fees and charges in the retail banking industry which has been welcomed by the Council as a move in the right direction. We believe that removing such barriers to consumer choice should extend into third party fees and charges such those imposed by merchants and even lawyers and engineers. While the Council commends RBF’s initiative, we urge the financial regulator to also scrutinize **debit card charges and conditions** imposed by traders or EFTPOS

¹ More information on the Council is available on its website: www.consumersfiji.org

operators. It is equally important to remove unfair surcharges levied on debit cards. Consumers in Fiji have come to accept debit cards mainly for withdrawing money from their bank accounts and for making purchases or payments at EFTPOS facilities. Fiji has a higher usage of debit card than credit cards and many consumers use EFTPOS services because of convenience, security etc. The Council has received complaints on debit cards and this is a concern. There are cases where retailers impose amounts like \$1.50 per EFTPOS debit card transaction.

3.0 Consumer expectations of Credit and Debit Card Facilities

Credit card uptake in Fiji is slow with some anecdotal evidence pointing to a 2 percent market. This low use of credit cards may be due to banks' stringent policies and minimum income requirements which make the majority of consumers ineligible or risky for credit card accounts. Despite this there is some anticipation that credit card usage will increase in years to come. The Consumer Council believes that debit and credit cards offer many features that make consumers' life easier and many consumers have come to accept without question that these features will deliver what they have been designed to offer. The following are just some of the consumer expectations when it comes to debit and credit cards.

- Debit and credit cards provide a more secure and convenient way to make purchases or payments compared to cash transactions.
- Cards remove the risks associated with carrying too much cash in person.
- Debit cards allow consumers to access their money from EFTPOS facilities in localities where ATMs and banks are not easily accessible or unavailable.
- Credit cards offer an alternative credit payment system that removes all the hassles associated with acquiring goods or services on credit.
- Credit cards give consumers the chance to make online purchases when they cannot make face-to-face purchases due to time or transportation constraints.
- Online credit card purchases allow consumers in Fiji to purchase goods that are not available locally.
- Consumers' use of debit and credit cards contribute positively to personal budgeting and financial management as transactions or spending are documented.
- Due to the documentation feature of cards, consumer complaints or redress can be better processed as purchases and payments can be tracked and traced.
- The development of e-commerce in Fiji and the Government's policy direction is towards making ICTs a facilitator of better living standards, means that consumers should be presented with opportunities and access to the benefits of new technologies. Credit/debit card surcharges are a barrier to these objectives.

Apart from the consumer expectations outlined here, debit and credit cards have a broader function of improving financial inclusion and aiding consumers to access financial services in a convenient way. Cards also assist businesses as transactions are cashless resulting in low

risk of theft and fraud; instant payment into their accounts; reduction of costly paperwork and; increase in customer patronage due to the availability of EFTPOS and credit card facilities.

4.0 Snap Survey – Credit Card Surcharges and Conditions of Use

The Consumer Council conducted a quick survey of 16 retail outlets in the Lami, Suva and Nasinu area that had credit card and EFTPOS facilities. These included supermarket chains and retail outlets frequented by most consumers in these densely populated areas. The survey conducted on 17 – 18 May 2012, focussed on fees and conditions attached to the use of credit cards at these outlets. The majority of retailers imposed a fee on customers who used credit cards for purchases below a minimum amount ranging from \$10 to \$20, while some placed a minimum amount allowable for credit card purchases. A few retailers instead of a flat dollar fee imposed a fee calculated as a certain percentage of the total purchase, if the credit card purchase was below a minimum set amount ranging from \$10 to \$20. The going rate for this is 3.5% of the purchase amount and is the condition imposed by one supermarket chain. Four (4) retailers did not impose any surcharge at all. Five (5) retailers charged a \$1 fee for any purchases less than \$10, one (1) retailer imposed a 50cent fee, while two charged \$1 but with the minimum (free) purchase at \$20 (See Table 1 below).

The survey found that retail outlets of one major supermarket chain differed in the way they imposed surcharges and conditions on credit card purchases. One branch has more than one condition; charged fee for purchases less than \$20 and credit card purchase not allowed for purchases less than \$10. One interesting observation was that consumers paid less in surcharges based on percentage of total transaction amount than those with a flat dollar fee. For example one retail outlet charged a fee equivalent to 3.5% of total purchase if the amount was less than \$20. So a customer with a \$15 shopping basket would be paying around \$0.53 while the outlet with a flat dollar fee charged \$1.00. While the Council focused on credit cards, the survey found that similar fees and conditions were imposed for debit cards/EFTPOS usage.

Table 1: Survey of credit card surcharges, 17th – 18th May 2012

Item/Conditions	Amount/Fee	No.
Surcharge on purchases less than \$10	\$0.50	1
Surcharge on purchases less than \$10	\$1.00	5
Surcharge on purchases less than \$15	3.5% of purchase amount	1
Surcharge on purchases less than \$20	3.5% of purchase amount	1
Dollar Fee on purchases less than \$20	\$1.00	2
No credit card purchases allowed if purchase is less than \$10	-	3
No surcharges	-	4

The survey shows that retailers are imposing surcharges and conditions for credit card use at their outlets, with most placing fees on purchases below \$20. Imposing fees on purchases

below a set minimum may compel consumers to purchase more from the outlet just to avoid paying the extra \$1.

5.0 Case of exorbitant Credit Card Surcharge – Air Pacific

Advances in information and communications technologies (ICTs) were meant to benefit businesses and consumers through the resulting reduction in costs, increase in convenience, security and encouraging commerce. However, these intended benefits are not forthcoming when businesses impose surcharges at such levels practised by our national airline Air Pacific. The airline charges an “applicable fee” of “FJ10 per ticket for credit card purchase”. The credit card fee is charged “per ticket” thus consumers who want to do an online purchase for more than one ticket have to fork out \$10 for each ticket (see Air Pacific ad below). The surcharging on per purchased item rather than per transaction is a clear case of excessive surcharging and sideline profiteering. It is a case where surcharges have little correlation with business costs and that excessive surcharging is being used as a new revenue stream. Air Pacific had informed the Council in 2010 that it was common industry practice to charge credit card service fees to partly recoup the merchant fees charged by credit card vendors. The Council argued that Fiji customers had signed up their credit card contracts with the banks and not the card issuer/vendor. When consumers join the credit card services, they are not informed that the consumers have to pay merchant’s fee. Merchant’s fee becomes a hidden cost to consumers.



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6.0 Complaints on Credit and Debit Card Surcharges and Conditions of Use

Apart from complaints against Air Pacific’s credit card surcharge, the Consumer Council has also received complaints against merchants who impose fees on the use of both credit and debit cards. Most of the complaints that the Council receives are from consumers who were being charged a fee by merchants for using their debit card. Many consumers are aware of in-store EFTPOS policies imposed by retailers such as a minimum purchase amount if one wants

to use the facility to withdraw money. In most cases consumers continue to use the EFTPOS facility unaware that they may be excessively charged or that the fee should not apply. Merchants also impose various conditions and restrictions which result in consumers being discouraged from using EFTPOS facilities. It must be highlighted that these restrictions does affect banks who issue debit cards as all the functions their promise are in reality not fully utilised by consumers. Consumers then begin to wonder why they need to have debit cards when one cannot fully take advantage of its all its features.

6.1 Case of surcharging and unfair condition – rural retailer

The Council has noticed that excessive fees and restrictive conditions are common amongst merchants operating in rural areas or in areas where income and financial literacy levels are low. In a case that the Council handled in December 2011, a prominent rural retail outlet was charging \$1.50 for use of its EFTPOS facility. The retailer was also acquiring the PINs of customers who had credit accounts at his store and using the customers' debit cards to withdraw moniew owed on their account. Many customers in this particular area were rural farmers and not conversant with banks' non-disclosure policy for PINs. During its investigations the Council was able to confirm that the bank to whom the EFTPOS facility belonged to had an agreement with the merchant and that it charged only 40cents per transaction to the merchant. The bank's fee meant that this merchant was actually making \$1.10 revenue from each EFTPOS transaction. Apart from purchases, the practice of withholding debit cards against debtors meant he was actually profiting from the fee. The bank's Merchant Operating Guide clearly stated the merchant's obligations which included that *no charges or fees to cardholders* be imposed. The bank advised that the merchant could set a minimum amount of purchase from the store as a condition for using the EFTPOS machine either for purchases or cash withdrawals.

6.0 RBF - Issues for Consultation

The following are the Council's responses posed by the RBF in its 'Credit Card Surcharge Consultation Paper.

6.1 Is there a need for a regulatory intervention in solving the issue of credit card surcharging including regulatory reporting and compliance?

The Council firmly believes that strong and specific regulatory intervention is necessary to remove credit/debit card surcharging and control or limit unfair conditions imposed by merchants on consumers. There is evidence that surcharging is going on in the market and this practice violates consumers' rights to disclosure and right of use of credit/debit cards. The regulatory intervention should include the necessary penalties to deter unfair surcharging and preconditions. A 2010 Australia report by CHOICE (Australian Consumers Association) *Credit Surcharging in Australia* found that surcharges had little correlation with business

costs and excessive surcharging was being used as a new revenue stream. The study also pointed to what it termed “profiteering” by merchants where a 1.5% surcharge by a hotel represented a 70 – 80% margin for the merchant. Credit card companies such as Visa and American Express have noted that in many cases merchants charge more than what these companies charged.

6.2 Should the merchant agreement between the merchants and commercial banks allow surcharge? If yes, what should the surcharge consider?

The merchant agreement should allow some sort of surcharge on the merchant as payment for the benefits derived from providing credit card and EFTPOS facilities. These charges however should not be passed down to the consumer. The credit card user already pays an annual credit card fee, interest and other fees to the bank. For example there are joining fees of \$48 to \$95; annual membership fees of \$48 to \$95; replacement card/PIN fee; transaction verification fee (\$10); duplicate statement fee; late payment/penalty fee (\$20-\$25); over-the-limit fee (\$25/month); and so forth.

6.3 Should the RBF require banks to conduct consumer education and disclose information about their credit card practices, including all fees and charges pertaining to the use of credit card?

The Council is of the view that consumer education is the responsibility of the banks and it should extend to the use of debit cards as well. Banks should be in a position to disclose to consumers in an appropriate way how the card or interchange system works. The interchange system that occurs behind the scenes should be explained to consumers and merchants alike. This will bring about more transparency so that consumers will know who is paying what, to whom and who is collecting what! It is very difficult for consumers to know if the surcharges they’re presented with are fair and reasonable, or if they’re being used as a profit centre by merchants. Credit and debit cards systems (EFTPOS) should be disclosed via consumer education. The Consumer Council has come across instances where merchants and banks have denied responsibility over certain card surcharges. In 2011 the Consumer Council had raised the issue that consumers who sign up for credit cards with local banks are signing contracts with the banks and not the credit card issuer. This was after the Association of Banks in Fiji (ABIF) had urged consumers who complain against credit card merchant fees to “take the matter up with the merchant or the credit card issuer” (“Fixing claims ‘inaccurate’” Fiji Times, 05th March 2011, p.12). The Council believes consumer information and disclosure of information about credit/debit card practices will remove confusion and allow more certainty especially when it comes to consumer complaints and redress.

The Council is also of the view that banks and other appropriate financial institutions should fully disclose credit/debit card interchange rates to the RBF as is the practice in other countries like Australia and New Zealand.

6.4 Is there a need for banks to allocate more resources for compliance and enforcement in areas where surcharges are common such as, online transactions or hoteliers?

The Council supports any policy that will make banks more responsible for third parties such as merchants. It should be highlighted that banks make agreements and contracts with merchants. Consumers make agreements and contracts with banks. For consumers the buck stops with the banks. Banks need to be involved more in monitoring merchants who they have agreements with. Apart from the apparent disregard for consumer rights to disclosure, merchants who impose card fees are actually putting the banks' names in disrepute. It is the responsibility of the banks to ensure that merchants do not exploit consumers, because the product or service they are using i.e. credit/debit card is issued by the bank and not the merchant.

7.0 Recommendations

Apart from comments and concerns raised above the Consumer Council submits the following recommendations for the Reserve Bank of Fiji to consider in this consultation on credit/debit card surcharging.

- The RBF should extend its inquiry to include debit cards considering that the majority of consumers (anyone with a bank account) use debit cards. This is the particular sector where the majority of consumer abuse is occurring whereby retailers with EFTPOS facilities are unfairly imposing fees and conditions on the use of these cards.
- The RBF or appropriate agencies facilitate regulatory intervention with the aim of removing unfair surcharges and establishing appropriate penalties to deter non-compliance.
- Surcharges between merchants and banks should not be passed on to consumers.
- The RBF to require banks to educate consumers and appropriately disclose information about the credit/debit card practices and interchange system to allow transparency and clear demarcation of responsibility when consumers are unfairly surcharged. The credit card system needs to be transparent so that consumers and regulators are aware of where responsibility is due.
- Banks who issue credit cards must bear greater responsibility for those merchants they have agreements/contracts with for the provision of credit/debit card facilities. Any breach of terms and conditions by the merchant should result in removal of the credit and debit card facility. This will hurt the merchant because consumers prefer using debit and credit card facilities when they shop for obvious reasons.
- Banks should disclose their credit/debit card interchange fees to the RBF and also disclose interchange rates with the card companies.

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