

Date: 13 October 2016

Item: Multi-lateral Interchange Fees

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**This paper will be considered in public**

**1 Summary**

- 1.1 This paper provides an update to the Committee in respect of legal proceedings which have been issued against both Visa and MasterCard in relation to Multi-lateral Interchange Fees (MIFs) charged by Visa and MasterCard.
- 1.2 A paper is included in Part 2 of the agenda which contains exempt supplementary information. The information is exempt by virtue of paragraphs 3 and 5 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of a person or authority and contains issues where a claim to legal professional privilege could be made. Any discussion of that exempt information must take place after the press and public have been excluded from the meeting.

**2 Recommendation**

- 2.1 **The Committee is asked to note the paper and the supplemental information on Part 2 of the agenda.**

**3 Background**

- 3.1 MIFs are charged by a credit card-holder's bank to a merchant's bank on sales transactions. TfL is charged MIFs on all Visa and MasterCard transactions. Claims have been brought by many other organisations in the US and the UK on the basis that these arrangements unlawfully restrict competition and are anti-competitive. In the US both Visa and MasterCard are reported to have admitted liability and reached settlements with numerous retail and merchant claimants. In the UK there are a number of test cases being run on issues, such as limitation periods, which are applicable to most of the claims, the outcome of which will inform the assessment of Visa and MasterCard's overall liability. Certain UK claims are reported to have been settled in advance, in particular one of a number of large retailers who are making claims.
- 3.2 We examined TfL's potential claims against both Visa and MasterCard on the basis that the MIFs charged unlawfully restricted competition and as such were anti-competitive. Given the assessment of the merits of the claims and the potential size of the claims, proceedings were issued against Visa and MasterCard on 2 August 2016. Separate but related proceedings, covering MIFs charged during an earlier period of time between 2002 and 2008, have also been issued in the Competition Appeals Tribunal against MasterCard on 2 September 2016. The claims have been brought in the name of TfL and each of the

subsidiaries where merchant fees costs have been incurred, including Transport Trading Limited.

3.2 The Committee will be kept updated as the proceedings progress.

**List of Appendices to this paper**

A paper containing exempt supplementary information is included in Part 2 of the agenda.

**List of Background Papers:**

None

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