

Class Action brought on behalf of merchants against Mastercard and Visa

Unlawful multilateral interchange fees imposed on commercial card transactions

INFORMATION ON JOINING THE CLAIM – OPT-IN



1. In this briefing we explain why you should opt-in to a competition law class action against Mastercard and Visa which concerns multilateral interchange fees (“MIFs”) on commercial cards.
2. In this case, we are arguing that by obliging acquiring banks to pay MIFs to issuing banks for commercial card transactions, and by setting the level of those MIFs, each of Mastercard and Visa acted anticompetitively, and therefore unlawfully. Since the acquiring banks passed these unlawful fees to businesses in the monthly service charges, it is businesses who have suffered loss and have the right to claim damages.
3. The class action involves:
 - No up-front cost because it is fully-funded by a litigation funder;
 - No risk of adverse costs if we do not succeed, because the litigation funder has taken out extensive after-the-event insurance;
 - No material time or management input for the duration of the case; the class representative directs the litigation and we ask only for a defined scope of data for analysis.
4. See further, paragraph 16, below.
5. This case is relevant for your business if:
 - You accept payments by Mastercard or Visa commercial credit, debit or other payment cards.
 - You have accepted at least one such payment from a commercial card in the period 6 June 2016 – 6 June 2022 in respect of which UK interchange fees were paid.
 - Your average annual turnover in the financial years 2016-2019 was £100 million or more. That is total business turnover, not just card turnover, wherever in the world generated.
6. A commercial card is any Mastercard or Visa card to which a commercial rate of multilateral interchange fee applies. Company cards or business cards, corporate purchasing cards, fuel cards, virtual cards and other similar payment cards are all commercial cards.

7. The payment transactions relevant to this case are those that were acquired or processed in the UK, regardless of where your card acquirer/payment processor is located. In practice, this means that they are transactions to which UK interchange fees are applied.
8. It will normally be straightforward to identify if you have received commercial card payments: your card acquirers/payment processors have the information, and if it does not appear clearly on your monthly statements, or on your payment processor's portal, you can request confirmation from them. Marcus Parker can help you – confidentially and at no cost - identify which transactions were on commercial cards, to inform your decision on joining the case.
9. If you qualify under the criteria set out above in paragraph (5), we invite you to opt-in to the claim. Please go to www.commercialcardclaim.co.uk and click "Join the Claim". You will be taken to an online form where you can enter your details – this takes less than five minutes – and this preserves your position but is not legally binding. We will follow-up with you to conclude the binding documentation – comprising a letter of engagement, the damages-based agreement and the litigation management agreement.
10. The deadline for opting-in on the website is 10 February 2025.
11. This case was launched before the Competition Appeal Tribunal in 2022 and in August 2024 was certified – i.e. given the green light to proceed to trial. You can see the history of the proceedings on the CAT's case pages: [1441/7/7/22 Commercial and Interregional Card Claims I Limited \("CICC I"\) v Mastercard Incorporated & Others | Competition Appeal Tribunal](#) and [1443/7/7/22 Commercial and Interregional Card Claims I Limited \("CICC I"\) v Visa Inc. & Others | Competition Appeal Tribunal](#).
12. This claim focuses on commercial cards. Interchange fees on commercial cards are unregulated, and commonly amount to 1.5-2% of transaction value (compared to the regulated levels of 0.2% on consumer debit cards and 0.3% on consumer credit cards). Even if commercial cards form a very small proportion of your total transactions, they may have an outsize effect on the interchange fees you pay.

13. Since we claim the MIFs are unnecessary and unjustified, we argue that businesses have suffered losses and should be compensated. Based on a long history of regulatory intervention and litigation, we believe the case to be strong. Please refer to the case website for more information: www.commercialcardclaim.co.uk.
14. By the terms of the CAT's order of 9 August 2024, certifying the claim, all businesses with turnover of £100 million or more that meet the defined criteria for participating are invited to opt-in to the claim by 10 February 2025. This is the only certified class action for merchants against Mastercard and Visa in the UK.
15. The claim is on course to be decided through a series of trials, currently timetabled to extend into 2026. It is possible, however, that the case will settle earlier.
16. We invite you to register your interest on a no-cost, no-risk and light-touch basis:
 - **No up-front cost:** the claim is funded in its entirety by Bench Walk Advisers, a US-headquartered litigation funder with operations in London. That means we do not charge you for the legal and other professional advisory costs of representing you in this claim.
 - **Tribunal-approved back-end fee** to cover funding costs of 32%, applied only if you obtain damages. That means you will receive 68% of damages allocated to you whether through judgment award or settlement.
 - **No risk:** the claim benefits from a comprehensive After-the-Event insurance policy, the up-front premium of which is paid for by Bench Walk Advisers. This means that if we are unsuccessful at any stage and need to pay adverse costs to the other side, the insurance policy responds and we do not ask you to contribute.

- **Light-touch:** the litigation is directed by the Class Representative, Commercial and Interregional Card Claims I Limited, and we do not expect or require you to take an active role in the litigation. We will be in touch with you with updates when there are developments to report. We will also be in touch for data on the interchange fees you paid. We recommend you act now to preserve your access to historic data on these fees going back to ideally to June 2016 or as close to that date as possible.
17. If you have previously brought a claim against Mastercard and Visa, which settled, do not assume you are barred from joining this claim. We believe a number of the older settlements may still allow you to claim damages for commercial card MIF.
18. You will want to know how much your claim is worth. Without seeing your data, we cannot give a precise figure. In any case, such a figure would be only a first indication. While we are claiming damages for the entire sum of overcharged MIF, the CAT might find that some level of MIF was legally justified, or that some of the overcharge you suffered was passed on to your customers, or both. All that said, to get an indicative idea, here are two quick methods:
- You could take a sample of statements from your card acquirer, extract the commercial card MIF payments, and then extrapolate for the period of claim. For example, let's say in a typical month, you paid £10,000 in MIF for commercial card payments you received. By the time the case finishes, perhaps 10 years after the start of the claim period (June 2016), your indicative MIF payments may have been: $120 \text{ months} \times £10,000 = £1,200,000$. Plus interest.
 - Another way is to take account of the fact that commercial card MIF rates, being unregulated, are far higher than regulated consumer card MIF rates – typically 1.5-2%, sometimes higher, on every commercial card transaction. Also note that commercial cards are more widely used now than before. Taking a hypothetical worked example:

- i. Your annual turnover for UK-acquired card transactions is £250m. Over a ten-year period those revenues have been £2.5 billion.
 - ii. Let's assume 1/3 of those revenues derive from transactions for which commercial cards were presented as payment.
 - iii. Let's further assume an overcharge of 2%.
 - iv. This gives a total commercial card claim of £16.5m:
 - 1. $£2.5\text{bn} * 33\% * 2\%$.
 - v. In this example, the total commercial card damages claim would amount to 6.6% of your average annual turnover ($16.5/250*100$).
- 19.** Bench Walk is also prepared to pay claimants upfront for a portion of their claim – up to the legal maximum of 49% - following due diligence into that claim. This allows those claimants to obtain some of their damages now instead of waiting.
- 20.** The team leading the litigation comprises:
- Steve Allen, owner and director of the Class Representative, Commercial and Interregional Card Claims I Limited;
 - Harcus Parker Limited, solicitors to the Class Representative;
 - Counsel, led by Lord (David) Wolfson, K.C., and Rhodri Thompson, K.C.;
 - Expert Economists;
 - Expert introducer BBMS; and
 - Media and PR support.

Commercial and Interregional Card Claims I Limited (Class Representative)

Harcus Parker Limited (Solicitors to the Class Representative)

30 October 2024

