



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case Nos: 1517/11/7/22 (UM)  
1266/7/7/16

BETWEEN:

**UMBRELLA INTERCHANGE FEE CLAIMANTS**

Claimants

- v -

**UMBRELLA INTERCHANGE FEE DEFENDANTS**

Defendants

(the "Merchant Interchange Fee Umbrella Proceedings")

AND BETWEEN:

**WALTER HUGH MERRICKS CBE**

Class Representative

- v -

- (1) MASTERCARD INCORPORATED**  
**(2) MASTERCARD INTERNATIONAL INCORPORATED**  
**(3) MASTERCARD EUROPE S.P.R.L.**

Defendants

(the "Merricks Collective Proceedings")

-and-

**BARCLAYS BANK PLC**

Non-party

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**CONSENT ORDER**

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**UPON** the Tribunal listing a trial to address acquirer and merchant pass on to take place in two parts, with the first part to commence on 18 November 2024 and likely to run for five four-day weeks until 20 December 2024 and the second part to commence on a date to be determined but likely to fall between March and May 2025 (“**Trial 2**”).

**AND UPON** paragraph 12 of the Order of the Tribunal made on 5 December 2023, as amended on 8 December 2023, providing a direction to the parties in the Merchant Interchange Fee Umbrella Proceedings and the Merricks Collective Proceedings to seek the disclosure of certain data from Barclays (defined below).

**AND UPON** the Trial 2 confidentiality ring order made on 28 February 2024 in the Merchant Interchange Fee Umbrella Proceedings (the “**Confidentiality Ring Order**”) and amended on 21 October 2024.

**AND UPON** the Parties (as defined below) and Barclays having agreed the terms of this Order.

**IT IS ORDERED BY CONSENT THAT:**

1. For the purposes of this Order:
  - 1.1 “**Relevant Active Umbrella Party**” or “**Relevant Active Umbrella Parties**” shall mean the Merchant Interchange Umbrella Proceedings Claimants represented by Scott+Scott UK LLP and Stephenson Harwood LLP and the Merchant Interchange Umbrella Proceedings Defendants.
  - 1.2 “**Barclays**” shall mean Barclays Bank plc and any affiliated entity.
  - 1.3 “**Data Request**” shall mean the request for data made by the Parties to Barclays as set out in Appendix 1 of this Order.
  - 1.4 “**Responsive Materials**” shall mean the datasets to be provided by Barclays in response to the Data Request.
  - 1.5 “**Disclosure Date**” shall mean 5 December 2024, subject to paragraphs 9 and 10 of this Order.
  - 1.6 “**Party**” or “**Parties**” shall mean any Relevant Active Umbrella Party and any party to the Merricks Collective Proceedings.

2. Subject to each of the Parties' economic expert teams executing a written data processing agreement on terms acceptable to Barclays, Barclays shall give disclosure and simultaneously provide inspection of the Responsive Materials on or before the Disclosure Date by providing them securely and electronically to the Parties' economic expert teams (whether via a nominee on behalf of the Parties or otherwise) who, for the avoidance of doubt, are members of the Confidentiality Ring Order. Upon receipt of the Responsive Materials in accordance with this paragraph, the Responsive Materials shall be deemed designated as "Trial 2 Confidential Documents" as defined in paragraph 1.6 of the Confidentiality Ring Order and shall be disclosed into the Trial 2 confidentiality ring in accordance with the Confidentiality Ring Order.
3. The Parties (and for the avoidance of doubt, their experts) shall treat the Responsive Materials in the same manner as "Trial 2 Confidential Documents" as defined in paragraph 1.6 of the Confidentiality Ring Order from the point at which the Responsive Documents are provided to them pursuant to paragraph 2 of this Order.
4. The Parties shall be jointly and severally liable to pay Barclays' reasonable costs (including VAT) of and occasioned by: (i) the disclosure of the Responsive Materials, including correspondence regarding the scope and practicalities of disclosure; and (ii) settling the terms of and complying with this Order and considering the Confidentiality Ring Order, to be summarily assessed by the President on the papers if not agreed (the "**Barclays Costs**"). The Barclays Costs shall be apportioned between the Parties in proportions to be determined by the Tribunal in due course unless agreed by the Parties.
5. The Barclays Costs shall be paid 28 days after the Barclays Costs are agreed or determined by the President in accordance with paragraph 4 of this Order.
6. In the event that any of the Parties discontinue or reach a settlement of some or all of their claims after the date of this Order, those Parties will remain liable for their share of the Barclays Costs.

## **COSTS**

7. Save as provided for in paragraph 4 above in respect of the Barclays Costs, the costs

of obtaining disclosure of the Responsive Materials shall be costs in the case of the Merchant Interchange Fee Umbrella Proceedings and Merricks Collective Proceedings.

## **OTHER**

8. Liberty to apply.
9. Barclays be at liberty to apply to vary the terms of this order, including but not limited to extending the Disclosure Date (the date for Barclays to comply with paragraph 2 of this Order).
10. The Parties be at liberty to agree a further consent order, including but not limited to extending the Disclosure Date (the date for Barclays to comply with paragraph 2 of this Order).

**Mr Ben Tidswell**  
Chair of the Competition Appeal Tribunal

Made: 8 November 2024  
Drawn: 8 November 2024

## Appendix 1 Data request schedule

### Schedule of Data Requested <sup>1</sup>

The parties request a monthly merchant-by-merchant dataset that, to the extent possible, contains the following:

1. Merchant Characteristics
  - a. Merchant ID
  - b. Merchant country or location
  - c. Merchant first served date<sup>2</sup> (to the extent available)
  - d. Merchant contract start date<sup>3</sup> (to the extent available to include start dates and end dates whenever a contract changed and/or the duration of a contract)
  - e. Schemes/type of cards/type of transactions covered by the contract
  - f. Merchant total and card turnover
  - g. Merchant Category Code (MCC)
  - h. Barclays' internal merchant categorization (if available)
  - i. Contract/Invoice type (including all different types, e.g. different levels of blending/IF+/IF++/other)
  
2. Monthly MSC, MIF and scheme fee data in relation to Visa and Mastercard transactions from January 2018 to June 2024, provided separately for each category of transactions that might incur a different MSC rate.

In this context "MSC rate" should be taken to mean the overall MSC rate paid for a particular category of transaction. This may consist of a 'headline' MSC rate, or a 'headline' rate plus an Additional Transaction Fee (ATF).

2.a. below provides a (non-exhaustive) list of transaction categories that may attract a different MSC rate (headline + ATF). 2.b. outlines the specific MSCs, MIFs and scheme data required.

- a. Categories of transactions:
  - i. Card scheme (e.g Mastercard, Visa)
  - ii. Card type (e.g. credit, debit, purchasing, prepaid)
  - iii. Cardholder type (e.g. commercial vs. consumer, potentially further split into corporate vs. fleet vs. purchasing vs. business/professional if these incur different rates of MSCs)

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<sup>1</sup> The parties note that there may be limitations on the data provided in that Barclays' internal systems may, for unknown reasons, recategorize transactions.

<sup>2</sup> Taken to be the date on which the first transaction was processed for that merchant.

<sup>3</sup> Taken to be the date on which the merchant is sanctioned by Barclays.

- iv. Card brand / interchange program (e.g. Mastercard World, Mastercard World Elite, etc.)
  - v. Issuer / cardholder region (e.g. domestic, intra-EEA, inter-regional)
  - vi. Card present / card not present
  - vii. Any other categories which incur different MSC rates per transaction
- b. For all merchants, monthly MSC, MIF and scheme fees for each of the categories of transactions in 2.a. above <sup>4</sup>:
- i. The MSC per transaction, as specified in the Merchant Service Agreement for the particular category of transactions (which may vary by merchant) (e.g. 2% for Mastercard domestic consumer credit cards)
  - ii. Value of MSCs for each category in each month (£)
  - iii. Value of sales and refund transactions for the particular category of transactions in that month (£)
  - iv. Number of sales and refund transactions for the particular category of transactions in that month
  - v. Value of MIF charges for the particular category of transactions in that month (£)
  - vi. Value of scheme or processing fees paid for the particular category of transactions in that month (£)

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<sup>4</sup> The parties understand that Barclays does not record actually charged MIF and scheme fee expenditure on a transaction level for merchants on blended contracts, but that MIF and scheme fee expenditure can be approximated using Barclay's internal systems. Barclaycard relied on this approximation when providing information to the PSR in the context of the Card Acquiring Market Review. For merchants on IF++ contracts, the parties require both the actually charged and approximated MIF and scheme fees. For merchants on blended contracts, the parties require the approximated MIF and scheme fees.