



VISA & MASTERCARD MERCHANT INTERCHANGE FEE LITIGATION

UHY Hacker Young and Purchase Direct have joined forces to create an insurance backed scheme for eligible retailers to seek compensation for credit and debit card interchange overcharging. The scheme has been designed to offer the opportunity to as many retailers as possible following the disappointment felt by many retailers after finding that they would be unable to join one of the large group litigation schemes.

FREETHS

The two parties have partnered with Freeths LLP, a full service commercial law firm and Christopher Brown, Barrister at Matrix Chambers who has been acting on behalf of various large retailers including Asda in their claims against Visa and Mastercard. The claim will piggyback off the existing litigation where, in the Asda case, Mastercard's interchange fees have been found to be unlawful. We expect the arguments will focus on the quantum of the interchange fees that can be recovered from Visa and Mastercard, although we expect that the schemes will try (in Mastercard's case, again) to show that their fees were justified. The industry specific nature of the claim (motor trade) with its high average transaction levels for the debit cards in particular will enable costs to be minimised and the calculation of the interchange fees charged will be carried out by Purchase Direct and verified by UHY Hacker Young to reduce costs further.

The legal costs of bringing a claim against both Visa and Mastercard are significant, which is why there has to be a threshold for claimants to join the scheme. In this case the threshold has been set at a minimum £75,000 claim, which equates to an annual card turnover of circa £5 million (typically this would equate to total annual turnover of circa £25m). If you are unsure as to whether you qualify please send us some sample statements from your merchant services provider.

In order to bring the proposed claim we need a total group claim of at least £10 million. To date UHY Hacker Young and Purchase Direct have already got confirmed interest totalling well over £5 million. We need more Motor Dealers to join the litigation and we can proceed **and you should not delay in registering your interest.**

Motor Dealers can formally register their interest in joining our scheme by completing and signing the one page document attached. As with the other schemes available the cost of funding the scheme is 25% of any settlement awarded after costs. The key benefit of joining our scheme is that, if you qualify, you can stop the clock on the unlawful charging of interchange fees at a point six years prior to your claim and this means that any settlement you would receive would start from the point of your claim starting. It is expected that the current cases are likely to take up to three years to reach a conclusion, so if you do not join a scheme you are likely to lose three years of damages, even if you can claim at some point in the future.

For obvious reasons, we need to recruit, sign up and register your claims promptly, so please act now to secure your place in the scheme. Once we have reached the £10 million goal then Freeths LLP will be setting a very short deadline and closing the scheme to new applicants. We anticipate this being the end of November.

THE LEGAL TEAM

Freeths LLP: Solicitors

Richard Coates – Partner and Head of Commercial Dispute Resolution at Freeths LLP's Birmingham office will lead the claim against Visa and Mastercard. Richard has a busy practice acting for a number of clients, but is a specialist in the motor retail space. Freeths LLP is a full service, top 50, national law firm with 13 offices across the country. Richard and the National Commercial Dispute Resolution Team will deal with all of the legal aspects of the claim on your behalf. Clients comment that “all problems and dangers are fully worked through” by the team, which focuses on “delivering a supportive, but not flowery, response and summary”. The national team has already prosecuted a claim for a leading international retail client in this sector and is ready to move forward as soon as possible. Time is of the essence and we need to strike as soon as possible.

Christopher Brown practicing from Matrix Chambers, London: Barrister