



using international are also considered non-qualified.

In 2010, the federal government introduced a voluntary code of conduct for the credit and debit card industry in Canada aimed at alleviating issues of asymmetric information and flexibility. When this code of conduct is adopted by the MSPs, they are expected to:

- to ensure that merchants are fully aware of the costs associated with the acceptance of credit and debit card payments;
- to provide the merchant with increased pricing flexibility to encourage consumers to choose the lowest-cost payment option (i.e. clearly show all components of the total fees, as most credit card agreements do not allow merchants to use incentives to discourage the use of credit card or premium credit cards); and
- to allow merchants to freely choose which payment options to accept.

However, this remains a voluntary code of conduct and, therefore has been adopted only by a limited number of service providers. Its voluntary nature stands to undermine any real benefits to merchants these policy proposals may have. In a 2013 decision, which dismissed a complaint against two large credit card service providers, finding that they had not violated the Competition Act, the federal Competition Tribunal acknowledged the issues in the country's credit card payment system and called for a regulatory solution. They stated that despite finding that the MSPs had not violated the Competition Act, "...we note that the Tribunal found that VISA's and MasterCard's conduct is influencing the price of credit card services in Canada upwards and having an adverse effect on competition. At the same time, the Tribunal felt that regulation of the industry would provide a more appropriate solution than any remedy that it could provide."²⁸⁶

Providing merchants with greater flexibility in choosing their MSPs and discriminating against more expensive transactions is seen as an OECD international best practice, a practice currently not allowed in Canada.²⁸⁷

In April 2015, the federal government released *Balancing Oversight and Innovation in the Ways We Pay: A Consultation Paper*, aimed at seeking comments on national retail payment systems. In 2017 the Ministry of Finance proposed a new Retail Payments Oversight Framework, a new federal oversight framework for retail payment systems, which was also sought public consultation and feedback. However, there has been little movement on this issue since then, or an indication of the actions the government plans to take post-consultation.

In August 2018, American Express announced an agreement to increase transparency and fairness while Visa and Mastercard agreed to a five-year voluntary reduction in fees they charge retailers to an average annual effective rate of 1.4 per cent from the current 1.5 per cent. This agreement will come into affect starting in 2020, which is when the 2014 voluntary rate reduction agreement expires. While these initiatives provide

