

CUTS INTERNATIONAL

RESPONSE TO RBI DISCUSSION PAPER ON CHARGES IN PAYMENTS SYSTEMS

1. Overall comments:

Over the years, efforts of the Reserve Bank of India (RBI) have been guided by interests of consumers and vulnerable stakeholders in the financial sector, and the same should continue.

Any proposed regulation around charges on payments systems must be guided by clear understanding of problems to be resolved in existing scenario, intended objectives, and expected costs and benefits of the possible interventions that aim to address the problems and achieve the objectives.

This process can be implemented through adoption of the Regulatory Impact Assessment framework in regulation making. RBI had resolved to adopt the cost-benefit component of RIA framework during the meeting of Financial Stability and Development Council.¹

The discussion paper is an excellent start in this process, as it broadly lays down the prevailing scenario and some key questions that need to be answered. However, it might be useful to go a step further to highlight the impact of prevailing scenario on the stakeholders, identify problem areas, examine if the questions and proposals cover the problem areas, and examine what are the possible costs and benefits of the proposals on different stakeholders.

Such exercise will greatly help in identifying the right questions and solutions and design optimal regulation with respect to payment systems.

2. Response to specific questions:

2.1 Should RBI impose charges on members for RTGS and NEFT? (Questions 1, 2, 4)

RBI operates RTGS and NEFT payment systems. Its cost of developing and operations of these payment systems is largely met by taxpayers' money. For RTGS, RBI charges monthly membership fee from direct members. It also used to levy time varying charges on RTGS. For RTGS and NEFT, RBI does not charge processing fees from participating banks.

To properly answer the query on should charges be imposed on banks' usage of RTGS and NEFT systems, one would need to understand the amount incurred in developing and operating these systems, amount already recovered through fees and charges imposed in the past, and how such amount was utilised by the regulator.

In simple words, it is important to understand how RBI has and intends to repay the taxpayers through money collected by operating the systems, which were design and operationalised using taxpayers' funds. If a significant portion of the amount invested is unrecovered, and there are clear plans of using the same for citizens' benefit, a strong case can be built in favour of imposing charges on usage of these systems.

¹ FSDC Resolution dated October 24, 2013, details available at https://dea.gov.in/sites/default/files/Handbook_GovEnhanc_fsIrc_2.pdf

However, given its primary role as a regulator, RBI may find it difficult to efficiently manage funds it collects if charges are imposed. Consequently, it might be useful to think about the need to spin-off payments system business from RBI to an independent professionally managed third party. Such party can pay RBI a pre-determined fee for it to use in the interest of financial consumers.

2.2 Should RBI regulate charges levied by banks on consumers for using RTGS and NEFT systems? (Questions 3, 5, 6)

While RBI currently does not impose processing charges, several banks do charge their customers for processing RTGS and NEFT transactions to recoup their investments and generate revenues.

Any additional expenses which the banks incur (as a result of RBI imposing charges on banks) would most likely pass on to the customers, exacerbating the double whammy situation which consumers find themselves in (as they had indirectly financed RBI to operationalise RTGS and NEFT payments systems, and they are paying to banks for usage of such systems).

To answer the question should RBI prescribe charges that can be levied on consumers by members for use of RTGS and NEFT systems, it would be useful to examine the impact on consumer interest, of caps that RBI has currently imposed on charges banks can levy on consumers.

As a result of such caps, are banks unable to recover their costs, and are forced to overcharge for other services they provide to consumers? Alternatively, do consumers find their user experience compromised as banks are unable to invest due to price caps?² It would also be useful to examine if most banks are pricing at the cap, leading to it becoming an artificial price point, which might not have been there, had price caps not been there? Such outcomes hurt consumer interests and are unintended adverse consequences of price caps.

Moreover, given that some banks are not charging consumers for RTGS, it would be useful to review if adequate information is available with the consumers about banks which are imposing charges, the amount being charged, and banks which are not charging? In other words, is effective choice available with the consumers of RTGS and NEFT payment systems.

Similarly, if not all banks are charging consumers, but still consumers are left with no effective choice but to use services of those banks which are imposing charges, it would be useful to investigate if effective competition exists in the sector? This would be linked with other questions of enabling effective competition in the RTGS and NEFT payment sector, by possibility of reducing entry and operational barriers. RBI had recently allowed non-banks to directly participate in RTGS settlement, it might be useful to investigate the impact of such move on pricing for consumers.

² There is ample evidence of overcharging other services, as a result of price caps. See, https://cuts-cicr.org/pdf/DP_the_way_to_promote_digital_payments.pdf

Lastly, consumers not only pay financially but also by providing data of their financial transactions which could be typically leveraged by banks for targeted advertisements and other offerings to consumers, a revenue generation activity for banks. Such data backed revenue generated avenues for banks need to be taken into account before thinking about pricing payment systems.

Consequently, while intention of regulating charges by banks on consumers for using RTGS and NEFT systems is ostensibly to uphold consumer interest, better alternatives could include promoting effective choice among consumers by enhancing transparency of pricing related information by reducing information asymmetry, and promoting competition by reducing entry and operational barriers. A beginning could be made by undertaking market assessment to identify competition related concerns in collaboration with the Competition Commission of India.³

2.3 Charges on IMPS transactions (Questions 7, 8)

IMPS is operated by NPCI, an industry owned non-profit company, which imposes charges on members for its use.

The discussion paper does not clearly highlight the problem in current scenario, but just says that IMPS transactions have continued to increase in spite of availability of other systems facilitating funds transfer without any charges.

One of the reasons for this could be that IMPS allows use cases (non-mobile, ability of non-banks to facilitate remittances), and that members do not have any option to choose from, other than NPCI operated IMPS, at least for such use cases.

In other words, this scenario is indicative of dominance of NPCI in immediate payments market, the solution of which might not be regulate IMPS pricing but could be to allow other entities to compete with NPCI and offer competitive products to IMPS.

Further, given that NPCI charges its members for IMPS transactions, while the discussion paper is not clear on this issue, it is highly likely that such charges are passed on to consumers by such market players. There is no clarity if adequate transparency exists in the market on charges levied paid by consumers on IMPS services, and if service providers are competing with each other on IMPS pricing for consumers.

Any price regulation could further exacerbate the situation of consumers as a high cap could serve as artificial price point and increase the cost of IMPS for consumers, and a low cap could force market players to impose charges on other services provided to consumers or reduce the quality of services (including innovation, grievance redress, transparency – which may not necessarily be at their optimal level at present) for IMPS.⁴

³ For further details on how this can happen, see https://cuts-ccier.org/pdf/Research_Report-Competition_assessment_of_payments_infra_in_India.pdf

⁴ See, https://cuts-ccier.org/pdf/Presentation_for_RBI_Committee_on_Deepening_Digital_Payments.pdf

Consequently, the regulator should focus on increasing the competition for NPCI in the retail payments segment and enhance transparency about IMPS pricing, in order to protect consumer interest.

Given that NPCI also plays the role of standard setter and quasi-regulator, in addition to operator of IMPS (and UPI), it might be useful to separate its roles as operator and regulator to prevent conflict of interest, and promote effective consumer welfare.⁵

2.4. Regulation of debit card charges (Questions 9-15)

Debit cards do not involve credit and interest foregone risk for card issuers and thus cannot be charged at par with credit cards. While card issuers invest in card issuance (and additional innovation), at present, most cards are currently issued by default during customer acquisition (except in case of specific non-frills accounts). Thus, limited clarity exists about debit card issuance cost.

The negotiation between PSO and card issuer about interchange payable to issuer for issuing card linked with a specific PSO is a function of level of competition within PSOs and issuers. Limited competitors enable issuers to drive payment terms to PSOs.

However, in India, large merchant acquirers and card issuers are common (banks). Often, the transaction is within a bank's ecosystem (on-US), or a net off between two large banks, practically nullifying the need for complicated pricing structure.

Thus, any pricing regulation at any nodes in the transaction (acquirer, merchant, or PSO) is likely to have unintended adverse consequences on consumers in form of overcharging of additional services, or reduction in quality, innovation, or grievance redress standards.

Consequently, while it might not make sense to introduce price regulation on debit card transactions, the regulator must introduce some principles and transparency standards so that consumers/ merchants are not unnecessarily overcharged in debit card transactions.

These principles could include, transparency in services for which charges are imposed on debit card transactions (these could include processing and acquisition cost, but not credit or interest risk). If issuers are imposing charges disguised as credit or interest risk in debit cards, this should tantamount to unfair business practice and penalised. Similarly, consumers should be able to compare charges at different nodes of a transaction for being able to identify players that charging premium for their services. In addition, if intermediaries are imposing additional costs on merchants and consumers in form of convenience charges or surcharges, there is a need to ensure that this does not amount to double charging of a service, or misuse by a market player of its dominance.

Previously, the government had intended to introduce competition at the PSO level through NPCI by introduction of RuPay cards, putting caps on its charges, and incentivised adoption of

⁵ For further details on how this can happen, see https://cuts-ccier.org/pdf/Research_Report-Competition_assessment_of_payments_infra_in_India.pdf

RuPay in form of reimbursements funded by taxpayers' money. While this led to increase in market size, and number of consumers possessing RuPay debit cards, it might be useful to examine if this had unintended adverse consequences on consumers experience in form of high transaction failures, inefficient grievance redress, low security, resulting from uneven playing field. Thus, it might be useful to discontinue such differential treatment of RuPay and other debit cards. In order to promote competition, the barriers to entry, operate, and exist, in acquisition, issuance and PSO businesses should be reviewed and reduced.

Similar principles could be followed while approaching charges for PPI transactions (Questions 20-22). It might be useful to examine the impact (and unintended consequences) of launching and incentivising Bhim wallet.

2.5. Regulation of credit card charges (Questions 16-19)

The discussion paper highlights following issues with respect to credit cards: charges not reflective of interest rate movements, advance payments not reflecting in form of lower MDR, or higher CIBIL score, and unreasonably high charges like late fees, interest of dues etc on card holder.

It is not clear how regulating credit card charges would address these concerns. Other regulatory instruments such as mandating transparency, enhancing competition, linking credit rating score to credit card repayment dates (and not just transactions and delays) and prohibiting and penalising unreasonable opaque and non-transparent (and incomparable) late fees and interest should be experimented with first, prior to thinking about imposing price regulation on credit cards.

The regulator should mandate clear differentiation between processing charge and credit risk charges and compare the same with debit card charges to identify overcharging, if any, and penalise and defaulting entities accordingly.

2.6. Regulating UPI charges (Question 24-26)

As adoption and usage of UPI has also been incentivised through taxpayers funds, like RuPay and Bhim, it should not be considered as zero-charged product. It is also not clear if issuers and merchants were paid the promised incentives for using UPI.

To enable effective competition and promote consumer interest, UPI should be treated as other payments systems, which is priced by its operator. However, like IMPS, given that NPCI is its only provider, it does not have a real competition (again, like IMPS).

Therefore, in order to truly serve consumer interest, its pricing must be left to market forces, with attached transparency mandates, and the regulator must focus on enabling competition to UPI and NPCI.

2.7. Charges by intermediaries (Questions 27-29)

Like other entities, intermediaries need to be transparent with their charges and consumers should have an option to compare different charges imposed by different intermediaries to make effective choice of their intermediaries.

In addition, consumer data collected by intermediaries should also be considered as a payment by consumer to such intermediaries as intermediaries are able to financially benefit through leveraging such data.

While they may or may not choose to unbundle and charge their services separately, they must clearly specify charges for each services (if when charged at a consolidated level)

Any concern about unreasonable charges owing to limit competition or unfair trade business must be accordingly dealt by the regulator in consultation with the competition regulator.

2.8. Surcharging and Convenience Fees (Questions 30-35)

It must be ensured that same service is not charged multiple times in the name of MDR, surcharges and convenience fees, in which case, appropriate penalties need to be levied.

In addition, consumers should be able to easily identify and compare different charges, surcharges and convenience fees imposed by players.
