Tentative Translation
(Only the Japanese version is authentic.)

Survey on Credit Card Market

March 2019
Japan Fair Trade Commission

Contents

Section 1: Purpose, Subjects and Methods of Survey

1. Purpose of Survey

The Japan Fair Trade Commission (JFTC) conducts surveys related to business activities in a particular field from the perspective of competition policy, and if it finds trade practices, etc. which are likely to be problematic under the Antimonopoly Act (AMA) and competition policy, it publishes the survey results and urges voluntary improvements by enterprises.

At present, the majority of the amounts of cashless payments in Japan utilize credit cards and the amounts of payments using credit cards are growing. *Growth Strategy 2017* (approved by the cabinet on June 9, 2017) and *Growth Strategy 2018* (approved by the cabinet on June 15, 2018) include the target of "doubling the cashless payment settlement ratio, to about 40% within the next 10 years (by June 2027)". Therefore, it is expected that the amounts of payments using credit cards will continue to increase in the future.

Under these conditions, the JFTC has initiated a survey on the credit card market in order to identify whether or not there are trade practices in the credit card market which are likely to be problematic under the AMA and competition policy.

2. Survey Subjects and Methods

(1) Survey Subjects

The JFTC conducted this survey regarding the credit card market.

(2) Survey Methods

The JFTC conducted the survey from February 2018 to February 2019 by means of the following methods.

A. Written Surveys

(A) Payment Network Operators

The JFTC requested 5 payment network operators to submit reports (responses: 5, response rate: 100%).

(B) Credit Card Companies

The JFTC requested 258[1] credit card companies to submit reports (responses: 226, response rate: approximately 88%. total share: approximately 91%[2]).

Figure 1-1: Breakdown of respondents (credit card companies)

Category[3]	Respondents
Banks and other financial companies	149
Credit loan companies	29
Small-to-medium retail trade groups	13
Department stores, volume retailers and distribution-related companies	18
Others	17
Respondents	226

1 Selected by the JFTC based on Internet information from "the comprehensive credit purchase intermediaries" as described in the Installment Sales Act (Act No. 159 of 1961), etc.

2 This is the share represented by the transaction volume (53.3607 trillion yen) reported as "the annual transaction volume in card issuing business" (in FY 2017) in the written survey of the credit card companies out of "the sales on credit by credit card – new supply" (58.3711 trillion yen) reported in *Japan Credit Statistics 2017* by the Japan Consumer Credit Association. However, some credit card companies responded without completing "the annual transaction volume in card issuing business" (in FY 2017) field, whose transaction volume was calculated as zero.

3 Created by the JFTC based on *2017 Survey on Selected Service Industries* by the Ministry of Economy, Trade and Industry.

(C) Shops[4]

The JFTC requested 2,000[5] shops to submit reports (responses: 723 [440 merchants[6] and 283 non-merchants[7]], response rate: approximately 36%).

Figure 1-2: Breakdown of respondents (shops)[8]

Category[9]	Merchant	Non-merchant	Respondents
Departments and general supermarkets	47	7	54
Other retail trades	137	54	191
Restaurants	55	38	93
Hotels	105	16	121
Others	91	145	236
Respondents[10]	435	260	695

B. Internet Survey

The JFTC conducted an internet survey (commissioned research) of 2,000 consumers who had credit cards.

Figure 1-3: Breakdown of respondents (consumers)

	29 or younger	30 or older but younger than 40	40 or older but younger than 50	50 or older but younger than 60	60 or older	Respondents
Male	200	200	200	200	200	1,000
Female	200	200	200	200	200	1,000
Respondents	400	400	400	400	400	2,000

C. Interviews

The JFTC conducted interviews on the followings:

(A) Payment network operators: 5
(B) Credit card companies: 14
(C) Shops: 8
(D) Experts, etc.: 14

4 This report refers to a business operator which sells products or provides services as a “shop”.

5 Corporate data were bought from a credit research firm based on the categories in Figure 1-2 and requests were sent (to (1) 100 departments and general supermarkets, (2) 700 other retail trades, (3) 400 restaurants, (4) 400 hotels, and (5) 400 others).

6 Indicating shops signing contracts for allowing use of credit card payments (merchant contracts) (refer to Section2-2(2) C).

7 Indicating shops except merchants (refer to Section2-2(2) C).

8 The respondents in Figure 1-2 were classified based on the responses reported by the respondents, not on the categories used by the credit research firm in the corporate data.

9 Created by the JFTC based on the *2017 Survey on Selected Service Industries* by the Ministry of Economy, Trade and Industry.

10 The respondents who answered each question are included in the calculation (the non-respondents are out of the calculation). The same shall apply below.

Section 2: Overview of Credit Card Market

1. Market Size

The amounts of payments using credit cards issued by credit companies in Japan in recent years were as follows.

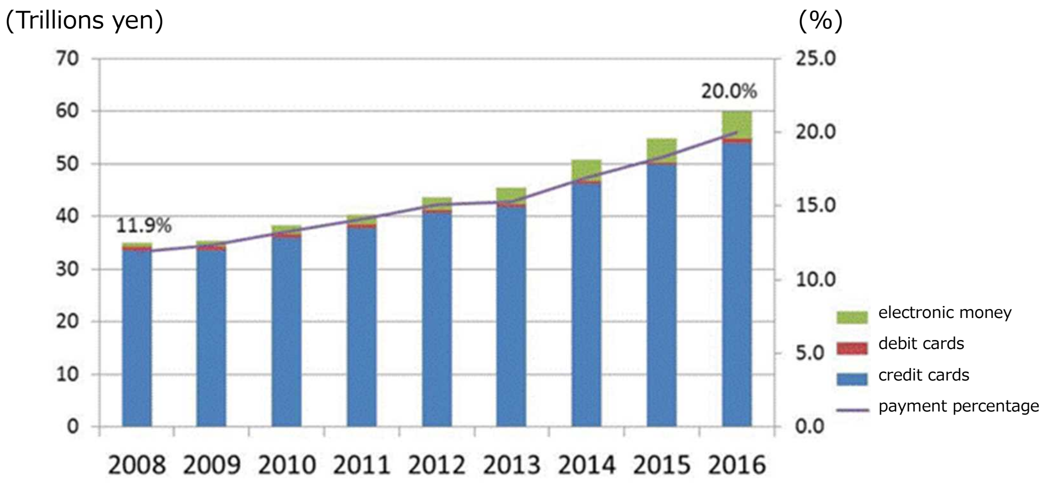
Figure 2-1: Amounts of payments using credit cards

	Amount of payments using credit cards
2013	41.7915 trillion yen
2014	46.2663 trillion yen
2015	49.8341 trillion yen
2016	53.9265 trillion yen
2017	58.3711 trillion yen

Source: "Sales on credit by credit card – new supply" reported in *Japan Credit Statistics 2017* by the Japan Consumer Credit Association

According to *Cashless Vision* published by the Ministry of Economy, Trade and Industry (April 2018), the percentage of cashless payments among private final consumption expenditures in 2016 was "20.0%", and the majority of the amounts of cashless payments were done by credit cards.

Figure 2-2: Amounts of cashless payments and percentages of such payments among private final consumption expenditures



Source: *Cashless Vision* by the Ministry of Economy, Trade and Industry, modified in part by the JFTC

2. Transaction Parties and Contractual Relationships

The parties to credit card transactions include payment network operators, credit card companies, consumers and shops, and there are a wide range of contractual relationships between the related parties.

(1) Payment Network Operators

In this report, an enterprise that provides brand rules, payment networks, etc. for credit cards that are used internationally is referred to as a "payment network operator". In *Guidelines for Concluding Contracts with Credit Card Affiliated Stores Formulated* (July 2017) issued by the Ministry of Economy, Trade and Industry, payment network operators include AMERICAN EXPRESS, Diners Club International, DISCOVER, JCB, Mastercard, Union Pay and VISA.

In this report, a credit card with a mark of a card brand is referred to as an "international brand card" and a credit card without a mark of a card brand is referred to as a "house card". The transaction volume using international brand cards and house cards was as follows.

Figure 2-3: Transaction volume using international brand cards and house cards[11]

Category	Transaction volume[12]	Percentage[13]
International brand cards	45.6 trillion yen	97%
House cards	1.2 trillion yen	3%
Total	46.8 trillion yen	100%

Source: The responses from the written survey of the credit card companies

Figure 2-4: Transaction volume for each card brand

Card brand name[14]	Transaction volume	Percentage
A	23.1 trillion yen	51%
B	11.9 trillion yen	26%
C	6.1 trillion yen	13%
Others	4.5 trillion yen	10%
Total	45.6 trillion yen	100%

Source: The responses from the written survey of the credit card companies

[11] Calculated based on the transaction volume at the credit card companies identifying the annual transaction volume for the card issuing business (FY 2017) by international brand cards or house cards in the responses to the written survey of the credit card companies.
[12] "Transaction volume" figures were rounded off to one decimal place. The same applies below.
[13] "Percentage" figures were rounded off to the nearest whole number, and as a result the total of all rows may not be 100%. The same applies below.
[14] "A", etc. as a card brand name in this and other figures may not always refer to the same card brand name. The same applies below.

(2) Credit Card Companies

In this report, an enterprise that issues credit cards to consumers and provides service environment for credit card payments to shops (excepting agencies) is referred to as a “credit card company”.

A. Contracts between Payment Network Operators and Credit Card Companies

In this report, a contract signed between a payment network operator and a credit card company in relation to the issue of credit cards and management of shops is referred to as a “franchise contract”.

B. Contracts between Consumers and Credit Card Companies

In this report, a contract signed between a consumer and a credit card company in relation to the issue of credit cards is referred to as a “membership contract”. A consumer who has a credit card under a membership contract is referred to as a “card member”[15]. Business related to a membership contract conducted by a credit card company is referred to as “card issuing business”.

C. Contracts between Shops and Credit Card Companies

In this report, a contract[16] signed between a shop and a credit card company in relation to making available the use of credit card payments is referred to as a “merchant contract”. A shop which has signed a merchant contract is referred to as a “merchant”[17] and the one which has not is referred to as a “non-merchant”. Business related to merchant contracts conducted by credit card companies is referred to as “merchant acquiring business”.

[15] There are 272.01 million credit cards issued by credit card companies in Japan according to *Japan Credit Statistics 2017* by the Japan Consumer Credit Association.

[16] There are some cases when there is an agency positioned between a shop and a credit card company.

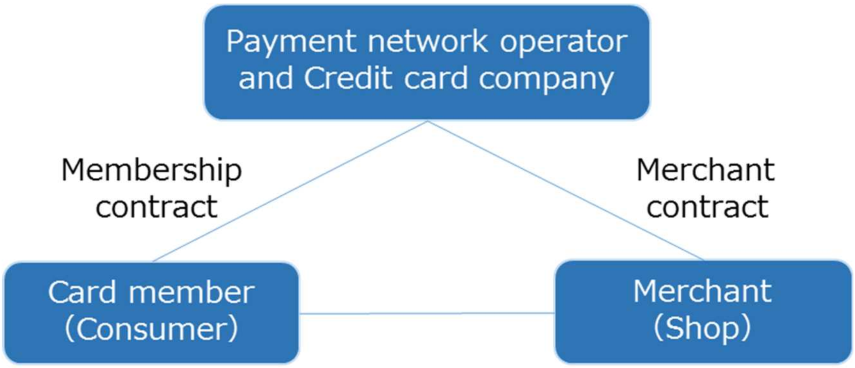
[17] There are 6,299,710 merchants for credit cards according to *2017 Survey on Selected Service Industries* by the Ministry of Economy, Trade and Industry.

3. Forms of Transactions

(1) Overview

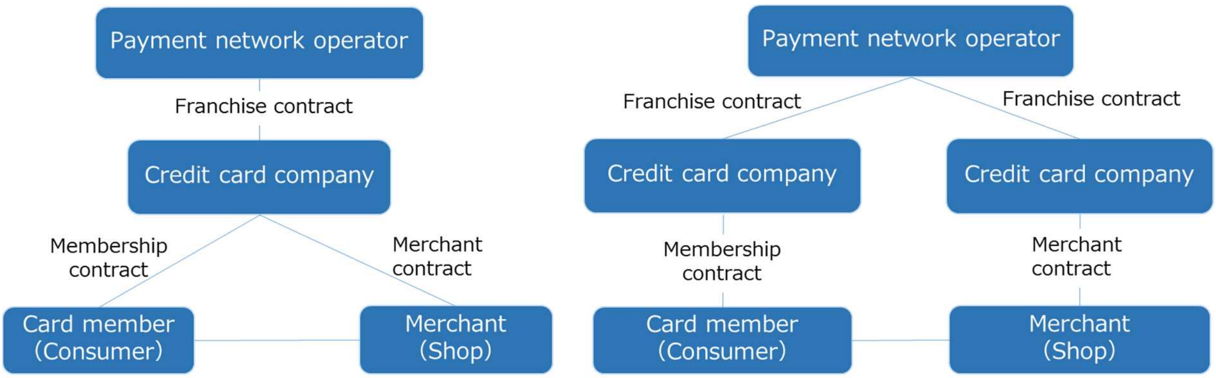
The majority of the transaction volume using credit cards in Japan are using international brand cards (Figure 2-3). The forms of transactions involving international brand cards include cases in which a payment network operator itself conducts card issuing business and merchant acquiring business, and cases in which a payment network operator does not conduct this business.

Figure 2-5: Cases in which payment network operator itself conducts card issuing business and merchant acquiring business



Source: The survey results

Figure 2-6: Cases in which payment network operator does not itself conduct card issuing business and merchant acquiring business



Source: The survey results

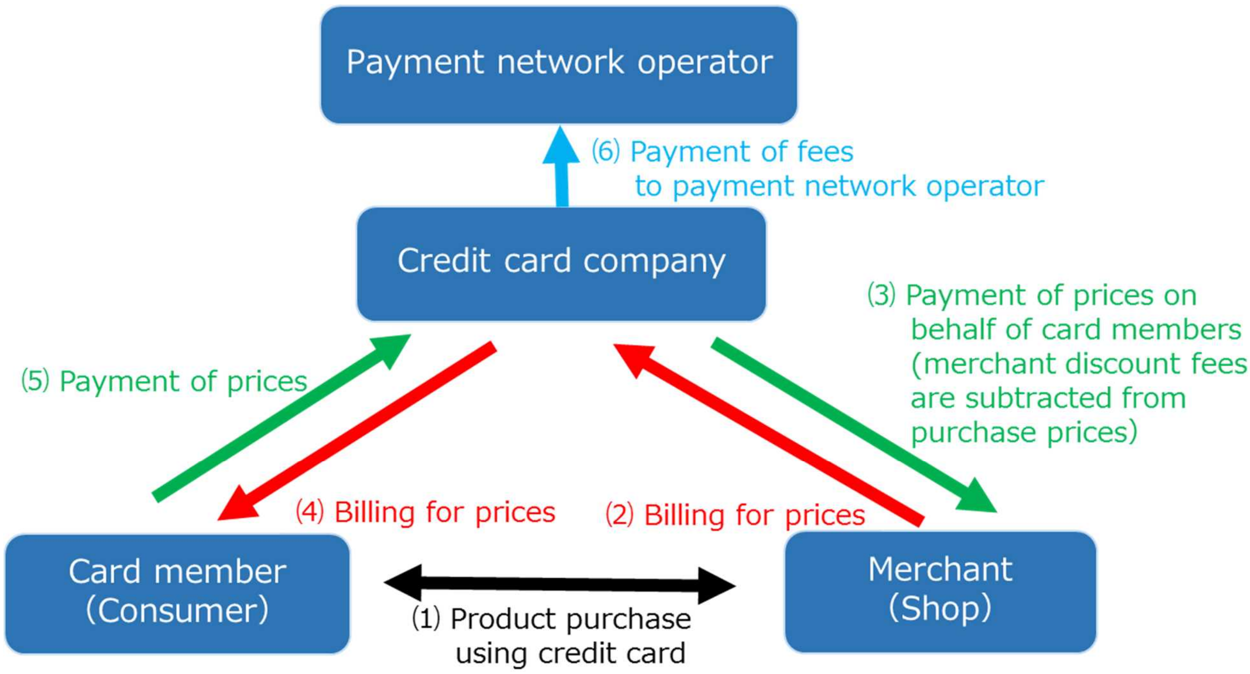
(2) Transaction Flows

Based on the results of the written survey of the credit card companies, etc., of the transaction volume involving international brand cards, more than half are in a form where a payment network operator does not itself conduct card issuing business and merchant acquiring business. Therefore, the transaction flows based on this form of transaction are as shown below.

A. On-us Transactions

In this report, a transaction in which a credit card company that conducts card issuing business and a credit card company that conducts merchant acquiring business are the same company is referred to as an "on-us transaction". An example of the flow of an on-us transaction is shown below.

Figure 2-7: Flow of on-us transaction



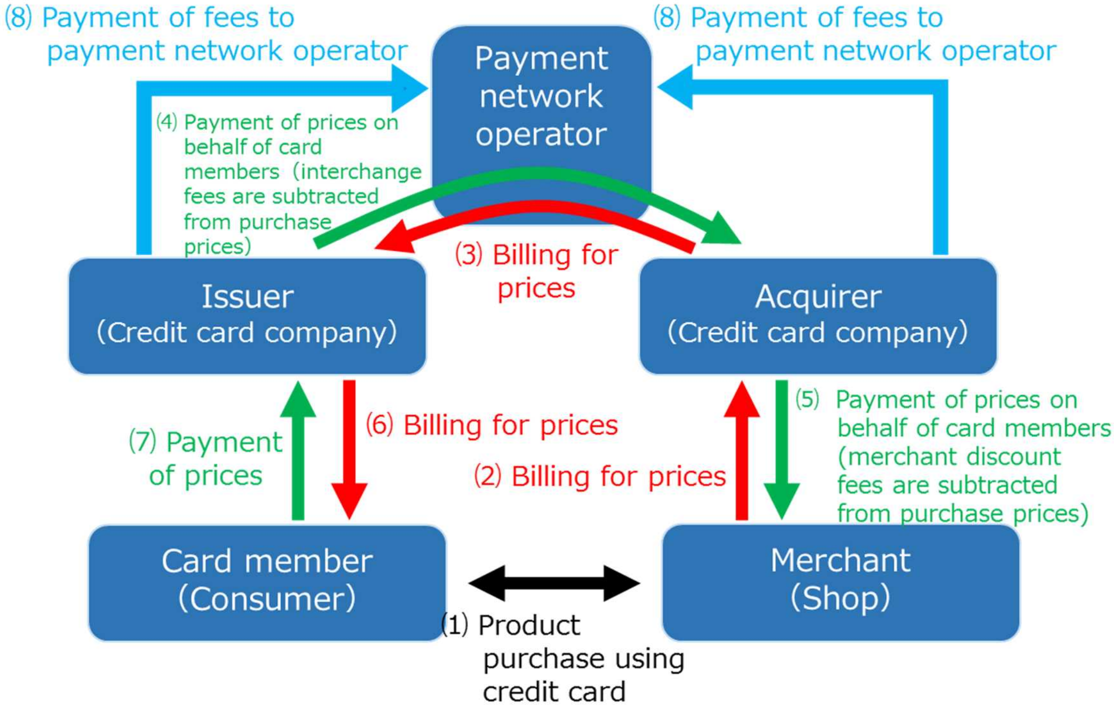
Source: The survey results

(1) A card member purchases a product using a credit card at a merchant.
(2) The merchant requests that the credit card company pay the purchase prices.
(3) The credit card company pays purchase prices to the merchant on behalf of the card members for each predetermined time period. When the credit card company pays the purchase prices, it subtracts a certain amount (hereafter referred to as a "merchant discount fee").
(4) The credit card company requests that the card member pay the purchase prices.
(5) The card member pays the purchase prices to the credit card company.
(6) The credit card company pays fees to the payment network operator for each predetermined time period.

B. Off-us Transactions

In this report, a transaction in which a credit card company that conducts card issuing business and a credit card company that conducts merchant acquiring business are different companies is referred to as an "off-us transaction". In an off-us transaction, a credit card company that conducts card issuing business is referred to as an "issuer", and a credit card company that conducts merchant acquiring business is referred to as an "acquirer". An example of the flow of an off-us transaction is shown below.

Figure 2-8: Flow of off-us transaction



Source: The survey results

(1) A card member purchases a product using a credit card at a merchant.
(2) The merchant requests that the acquirer pay the purchase prices.
(3) The acquirer requests that the issuer pay the purchase prices via the payment network operator.
(4) The issuer pays the purchase prices on behalf of the card members to the acquirer via the payment network operator. When the issuer pays the purchase prices, it subtracts a certain amount (hereafter referred to as an "interchange fee")[18].
(5) The acquirer pays purchase prices to the merchant on behalf of the card members for each predetermined time period. When the acquirer pays the purchase prices, it subtracts merchant discount fees.
(6) The issuer requests that the card member pay the purchase prices.
(7) The card member pays the purchase prices to the issuer.
(8) The issuer and the acquirer pay fees to the payment network operator for each predetermined time period.

[18] Revenue of credit card companies comes from the card members (annual membership fees, etc.) and the merchants (merchant discount fees). Credit card companies usually set lower annual membership fees, etc., in order to attract consumers, who have freedom of options with regard to means of payment, to become the card members. So, the merchant discount fees are the main revenue for the credit card companies. In an off-us transaction, the issuer cannot receive the merchant discount fees, so the funds for acquiring card members would be insufficient. The interchange fees compensate for the shortage. Therefore, the payment network operators consider the interchange fees to be an important element which consists of their payment network.

(3) On-us Transactions and Off-us Transactions

The volume of on-us transactions and off-us transactions was as follows.

Figure 2-9: Volume of on-us transactions and off-us transactions[19]

Category	Transaction volume	Percentage
On-us transactions	19.2 trillion yen	45%
Off-us transactions	23.7 trillion yen	55%
Total	42.9 trillion yen	100%

Source: The responses to the written survey of the credit card companies

[19] Calculated based on the transaction volume at the credit card companies distinguishing the annual transaction volume for the card issuing business (FY 2017) by on-us transactions from the one by off-us transactions in the responses to the written survey of the credit card companies.

Section 3: Transactions in Credit Card Market

1. Membership Contracts

When the card members were asked which international brand cards they had, the responses were as follows.

Figure 3-1: Possession of credit card by card brands (top 5, multiple responses permitted)

Card brand name	Responses	Percentage
A	1,561	78%
B	1,219	61%
C	773	39%
D	238	12%
E	19	1%
Respondents	2,000	

Source: The responses to the internet survey of the consumers

When the card members were asked how often they used a credit card, the responses were as follows.

Figure 3-2: How often card members use credit card

Response	Respondents	Percentage
Generally use when shopping	773	39%
Use depending on circumstances	1,040	52%
Do not use very often	152	8%
Do not use at all	35	2%
Respondents	2,000	100%

Source: The responses to the internet survey of the consumers

When the card members who responded "Generally use when shopping", "Use depending on circumstances" and "Do not use very often" in responses to the above question were asked what kind of situations they used a credit card, the responses were as follows.

Figure 3-3: What kind of situations card members use credit card (multiple responses permitted)

Response	Responses	Percentage
When shopping on the Internet	1,762	90%
When buying high-price items	1,278	65%
When I want to get benefits (e.g., points)	992	50%
When I do not have cash on me	721	37%
When shopping overseas	481	24%
Others	50	3%
Respondents	1,965	

Source: The responses to the internet survey of the consumers

When the card members were asked the important points they focused on when applying for a new credit card, the responses were as follows.

Figure 3-4: Important points when applying for a new credit card (top 5, multiple responses permitted)

Response	Responses	Percentage
Annual membership fees	1,514	76%
Benefits for payments (e.g., points)	922	46%
Benefits for new membership (e.g., points)	882	44%
Number of merchants	525	26%
Brand recognition and trust	472	24%
Respondents	2,000	

Source: The responses to the internet survey of the consumers

When the card members were asked how much initial membership fees and annual membership fees they had paid during the most recent 1 year, the responses were as follows.

Figure 3-5: Total amounts of initial membership fees and annual membership fees paid during most recent 1 year

Response	Respondents	Percentage
0 yen	1,095	55%
1 or more but less than 5 thousand yen	486	24%
5 thousand or more but less than 10 thousand yen	107	5%
10 thousand or more but less than 20 thousand yen	145	7%
20 thousand yen or more	167	8%
Respondents	2,000	100%

Source: The responses to the internet survey of the consumers

2. Merchant Contracts

When the merchants were asked which international brand cards they accepted, the responses were as follows.

Figure 3-6: International brand cards accepted by merchants (top 5, multiple responses permitted)

Card brand name	Responses	Percentage
A	416	95%
B	408	93%
C	373	85%
D	314	72%
E	293	67%
Respondents	439	

Source: The responses from the written survey of the shops

When the merchants were asked how many merchant contracts they had signed at that time, the responses were as follows.

Figure 3-7: Numbers of merchant contracts

Response	Respondents	Percentage
1 contract	110	25%
2 contracts	85	20%
3 contracts	34	8%
4 contracts	34	8%
5 or more contracts	169	39%
Respondents	432	100%

Source: The responses from the written survey of the shops

When the merchants were asked why they had started accepting credit card payments, the responses were as follows.

Figure 3-8: Reasons for accepting credit card payments (multiple responses permitted)

Response	Responses	Percentage
Because credit card payments have become common practice	333	76%
In order to increase the number of customers	170	39%
In order to increase per-customer spending	62	14%
In order to reduce work for preparing change	37	8%
In order to shorten an accounting time	27	6%
Others	36	8%
Respondents	436	

Source: The responses from the written survey of the shops

When the merchants were asked the important points they focused on when signing a merchant contract, the responses were as follows.

Figure 3-9: Important points for merchant contracts (top 5, multiple responses permitted)

Response	Responses	Percentage
Merchant discount fees	362	83%
Initial cost including price of the payment terminal	169	39%
Recognition and trust of a counterparty to the merchant contract	123	28%
Frequency of payment by credit card company and transfer fees	95	22%
Handling of diverse payment means (e.g., electronic money[20])	71	16%
Respondents	436	

Source: The responses from the written survey of the shops

When the merchants were asked the merchant discount rates[21] for credit cards that the merchants actually paid to the credit card companies, the responses were as follows[22].

Figure 3-10: Merchant discount rates paid by merchants

Response	Respondents	Percentage
Less than 1%	6	1%
1 or more but less than 2%	56	13%
2 or more but less than 3%	107	25%
3 or more but less than 4%	132	31%
4 or more but less than 5%	71	17%
5 or more but less than 6%	52	12%
6% or more	6	1%
Respondents	430	100%

Source: The responses from the written survey of the shops

[20] According to *Recent Trends of Electronic Money (2012)* by the Bank of Japan (November 2012), " 'electronic money' as is generally referred indicates the prepaid (paid in advance) electronic retail payment means which needs to be topped up before use". The "electronic money" in this report complies with this definition.

[21] For cases when a merchant had multiple merchant contracts, the survey requested the average of merchant discount rates (total value of merchant fees / total value of credit card payments). If the merchant discount rates were provided to two or more decimal places, the rates were requested to be rounded to one decimal place.

[22] The credit card companies bear in mind, when setting a merchant fee rate, the merchant fee rates that other credit companies request, the sales volume and the amounts of payments using credit cards of the merchant, the cost for managing the merchant, the interchange fee rate, etc..

When the merchants were asked whether or not they had conducted bidding or compared estimates when signing a merchant contract, the responses were as follows[23].

Figure 3-11: Relationship between bidding, etc. when signing merchant contract and merchant discount rates

	Conducted		Did not conduct		Total	
Annual sales of merchant	Respondents	Average of merchant discount rates[24]	Respondents	Average of merchant discount rates	Respondents	Average of merchant discount rates
Less than 50 million yen	9	3.9%	80	4.0%	89	4.0%
50 million or more but less than 100 million yen	14	3.4%	44	3.9%	58	3.8%
100 million or more but less than 200 million yen	9	3.4%	42	3.6%	51	3.6%
200 million or more but less than 500 million yen	16	3.2%	54	3.3%	70	3.2%
500 million or more but less than 1 billion yen	11	3.0%	22	3.1%	33	3.1%
1 billion or more but less than 10 billion yen	18	2.3%	38	2.7%	56	2.6%
10 billion yen or more	26	1.8%	34	2.1%	60	1.9%
Respondents	103	2.8%	314	3.4%	417	3.2%[25]

Source: The responses from the written survey of the shops

23 Comparing the merchants that conducted bidding, etc. when signing a merchant contract with the merchants that did not show that the merchant fee rates for the merchants that did were lower, as shown in Figure 3-11. When further regression analysis of this point was performed, the results showed a statistically significant negative relationship between conducting bidding, etc. and the merchant discount rates (the merchant discount rates were lower at the merchants that did than at the merchants that did not) (5% significance level).
In addition, when the merchants that had higher annual sales were compared with the merchants that had lower ones, the merchant discount rates at the merchants with higher annual sales were lower, as shown in Figure 3-11. When further regression analysis of this point was performed, the results showed a statistically significant negative relationship between annual sales and merchant discount rates (the merchant discount rates were lower at the merchants with higher annual sales than at the merchants with lower ones) (1% significance level).
As the results of this analysis are limited by the available data, etc., they are positioned only as supplemental information for the qualitative survey results.

24 "Average of merchant discount rates" figures were rounded to one decimal place. The same applies below.

25 The weighted average of merchant discount rates calculated based on the amount of payments using credit cards which the 393 merchants responded included in the annual sales was 1.7%.

3. Franchise Contracts

The numbers of card brands that the credit card companies had a selection of were as follows.

Figure 3-12: Numbers of selection of card brands

Response	Respondents	Percentage
1 brand	47	23%
2 brands	78	38%
3 brands	48	23%
4 brands or more	34	16%
Respondents	207	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked why they had started dealing with the card brands, the responses were as follows.

Figure 3-13: Reasons for starting transactions with card brands (multiple responses permitted)

Response	Responses	Percentage
Recognition and trust of the card brand	386	84%
Large number of the merchants	245	53%
Large number of the members	110	24%
Low fees paid to the payment network operator	4	1%
Others	62	13%
Respondents (cumulative total)[26]	460	

Source: The responses from the written survey of the credit card companies

When the credit card companies which had a selection of multiple card brands were asked how much the card brand with the highest transaction volume constituted of total transaction volume, the responses were as follows.

Figure 3-14: Percentages of transaction volume constituted by card brand with highest transaction volume

Response	Respondents	Percentage
80% or more	31	20%
60 or more but less than 80%	69	45%
40 or more but less than 60%	44	28%
20 or more but less than 40%	11	7%
Less than 20%	0	0%
Respondents	155	100%

Source: The responses from the written survey of the credit card companies

[26] "Cumulative total" figure was tabulated figure which was calculated from the number of the responses for each payment network operator in the written survey of the credit card companies. The same applies below.

When the credit card companies were asked whether or not it was possible to change the counterparty payment network operator, the responses were as follows.

Figure 3-15: Possibility of changing counterparty

Response	Respondents	Percentage
Changing the counterparty would be difficult or impracticable	241	84%
Changing the counterparty would be possible depending on contract terms	37	13%
Other	8	3%
Respondents (cumulative total)	286	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies that responded "Changing the counterparty would be difficult or impracticable" to the above question were asked why, the responses were as follows.

Figure 3-16: Reasons why changing counterparty would be difficult or impracticable (top 5, multiple responses permitted)

Response	Responses	Percentage
If the contract with the current payment network operator was terminated, the credit card numbers of the existing card members would have to be changed, causing inconvenience to the members[27]	202	84%
The current card brand has extremely strong brand power over the customers	142	59%
The transaction volume with the current card brand is high	100	41%
Transactions with the current payment network operator improve the level of customer trust in our credit card company	48	20%
The size of the current payment network operator business is growing	48	20%
Respondents (cumulative total)	241	

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked whether or not they had ever terminated a contract with a payment network operator, the responses were as follows.

Figure 3-17: Ever terminated contract with payment network operator or not

Response	Respondents	Percentage
Yes	12	6%
No	201	94%
Respondents	213	100%

Source: The responses from the written survey of the credit card companies

[27] When an international brand card is issued, the credit card starting numbers and number of digits vary depending on the card brand.

When the credit card companies that responded “Yes” to the above question were asked why they had terminated the contract with the payment network operator, the responses were as follows.

Figure 3-18: Reasons for terminating contract with payment network operator (multiple responses permitted)

Response	Respondents	Percentage
Because of business restructuring[28]	10	83%
Because the contract period terminated	0	0%
Because the contract conditions were disadvantageous for our credit card company	0	0%
Others	2	17%
Respondents	12	

Source: The responses from the written survey of the credit card companies

The main opinions[29] of the credit card companies regarding the relationships between payment network operators and credit card companies were the followings.

<Credit card companies>

- Our credit card company has a considerable number of card members for a particular card brand, and in practical terms it is impossible to change the counterparty payment network operator even if the terms of transactions become unfavorable.

- For card members, credit cards are a living necessity, and as a result terminating transactions between our credit card company and a payment network operator would likely be considered problematic by society.

- Changing the counterparty payment network operator is not something that can be done easily, as it would require changing the card numbers of the card members and making system modifications.

- In the merchant acquiring business, it is important to provide a wide range of services to merchants. If we credit card companies did not have a selection of a particular card brand, the shops would not choose us as a counterparty. Therefore, we simply do not have the option of terminating transactions with a particular payment network operator.

[28] For example, a case where the contracts between one or more of the companies and a payment network operator become unnecessary because of restructuring by some credit card companies.

[29] “The main opinions” were summarized by the JFTC and were not verbatim comments from the responses at the written surveys and interviews. The same applies below.

4. Summary

The majority of the credit cards used in Japan are international brand cards, and several payment network operators occupy the credit card market. In addition, it seems that transactions with payment network operators are important for credit card companies for doing their business. The subsequent sections will analyze and study mainly the transactions between payment network operators and credit card companies.

Section 4: Transactions between Payment Network Operators and Credit Card Companies

1. Unilateral Revision of Contract Contents

When the credit card companies were asked about whether or not there was a contract provision (hereafter referred to as a "comprehensive consent clause") which made the consent of a credit card company unnecessary for revisions of contract contents, including fee rates and amounts paid to a payment network operator, and about whether or not unilateral revision of contract contents had signed, the responses were as follows.

Figure 4-1: Comprehensive consent clause and trade practices involving unilateral revision of contract contents

Response	Comprehensive consent clause included	No comprehensive consent clause	Respondents (cumulative total)
The contract contents have been unilaterally revised	71 (25%)	50 (18%)	121 (43%)
The contract contents have not been unilaterally revised	22 (8%)	137 (49%)	159 (57%)
Respondents (cumulative total)	93 (33%)	187 (67%)	280 (100%)

Source: The responses from the written survey of the credit card companies

When the credit card companies which responded "Comprehensive consent clause included" or "The contract contents have been unilaterally revised" in response to the above question were asked which possible disadvantages they would suffer from the comprehensive consent clause and unilateral revision of contracts, the responses were as follows.

Figure 4-2: Possible disadvantages resulting from comprehensive consent clause and unilateral revision of contract contents (multiple responses permitted)

Response	Responses	Percentage
Increase in fee rates or amounts listed in the initial contract	121	85%
New fees that did not exist in the initial contract	103	72%
Expenses and trouble for system improvements	80	56%
Increase in restrictions on card standards and face design	75	52%
Expenses and trouble for measures to prevent unauthorized use	69	48%
No particular disadvantages	12	8%
Others	2	1%
Respondents (cumulative total)	143	

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked whether or not they thought that the fees which they paid to the payment network operator were reasonable in comparison to the service contents which they received from the payment network operator, the responses were as follows.

Figure 4-3: Relationship between fees paid to payment network operator and service contents (Issuing business)

Type of fees[30]	Reasonable	Not reasonable	Other	Respondents (cumulative total)
Fees paid in accordance with the domestic transaction volume	119 (52%)	77 (34%)	33 (14%)	229 (100%)
Fees paid in accordance with the international transaction volume	103 (50%)	77 (37%)	28 (13%)	208 (100%)

Source: The responses from the written survey of the credit card companies

Figure 4-4: Relationship between fees paid to payment network operator and service contents (Acquiring business)

Type of fees	Reasonable	Not reasonable	Other	Respondents (cumulative total)
Fees paid in accordance with the domestic transaction volume	83 (56%)	47 (32%)	19 (13%)	149 (100%)
Fees paid in accordance with the international transaction volume	60 (51%)	40 (34%)	17 (15%)	117 (100%)

Source: The responses from the written survey of the credit card companies

[30] The fees do not cover all the fees paid by the credit card companies to the payment network operators. The same applies below.

When the credit card companies which responded that the fees had been raised within the past 10 years were asked whether or not there had been an opportunity to receive an explanation by the payment network operators related to the amount of such monetary contribution to be paid, the basis for the calculation of such amount, and the use of such money, etc. concerning the increase in the fees, the responses were as follows.

Figure 4-5: Was there opportunity to receive explanation when fees were raised? (Issuing business)

Type of fees	Yes	No	Others	Respondents (cumulative total)
Fees paid in accordance with the domestic transaction volume	45 (79%)	11 (19%)	1 (2%)	57 (100%)
Fees paid in accordance with the international transaction volume	32 (73%)	11 (25%)	1 (2%)	44 (100%)

Source: The responses from the written survey of the credit card companies

Figure 4-6: Was there opportunity to receive explanation when fees were raised? (Acquiring business)

Type of fees	Yes	No	Others	Respondents (cumulative total)
Fees paid in accordance with the domestic transaction volume	21 (75%)	6 (21%)	1 (4%)	28 (100%)
Fees paid in accordance with the international transaction volume	19 (68%)	6 (21%)	3 (11%)	28 (100%)

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked which of the following items they had wanted the payment network operator to provide an explanation when the contract had been signed related to the fees which they paid to the payment network operator, the responses were as follows.

Figure 4-7: Items of which the credit card companies wanted explanation from payment network operator when contract was signed (multiple responses permitted)

Response	Responses	Percentage
Basis for calculation and use of fees	118	46%
Rates and amounts of fees	99	39%
Prospects for future increases in fees	78	30%
Possibility of fees being changed unilaterally	57	22%
Conditions of past increases in fees	52	20%
Others	72	28%
Respondents (cumulative total)	257	

Source: The responses from the written survey of the credit card companies

The main opinions of the payment network operators and the credit card companies regarding unilateral revisions of contract contents were the followings.

<Payment network operators>

- The consent from the credit card companies to the possibility of future revisions of the rules and to observing the revised rules is obtained at the time when the contract is signed.

- In order to maintain a balance among the interests of various related parties who participate in a payment network and to serve the best interests of the parties, it is necessary for the payment network operator to independently decide the rules.

- It is necessary to timely revise the rules in accordance with various developments in the credit card market such as revisions of applicable laws in each country, maintaining the level of security, and preventing unauthorized transactions. If the consent from the credit card companies must be obtained on all such revisions, there is the risk that the payment network will be unable to function.

- When rules are revised, a sufficient preparation period is set and full explanations are provided.

- Credit card companies which are unable to comply with a revised rule may be granted exemptions from the rule in accordance with their individual circumstances.

<Credit card companies>

- There is no room for negotiation with a payment network operator concerning the contents of the franchise contract, and the situation is closer to obtaining permission from the payment network operator.

- Revision of the fees paid to the payment network operator is considered to be non-negotiable contract terms.

- A credit card company must follow the rules decided by a payment network operator. However, because it is possible to apply for individual exemptions based on necessity, it is understood that the contracts do not permit unilateral revisions of contract contents by the payment network operator.

- After fees paid to a payment network operator are revised, there are no active explanatory meetings from the payment network operator, and in the majority of cases individual explanations are provided only upon requests from the credit companies.

- The contract terms related to unilateral revision of contract contents do not explain the circumstances in which revisions such as an increase in fees paid to a payment network operator may be conducted, or the conditions of such an increase. It is understood that we cannot foresee such matters.

- Some payment network operators have rules to force the use of a service which a credit card company does not require and collect a fee as the fee for the use of that service.

2. Bearing of Expenses Involved with Mandatory Embedding of Contactless Payment Chips

When the credit card companies were asked whether or not, at the time when issuing a credit card with a mark of a card brand, they had received a notice from the payment network operator that embedding a contactless payment chip (e.g., if embedded in a credit card, a card holder can pay by holding the credit card over a payment terminal) provided by the payment network operator was required or would be required in the future, the responses were as follows.

The communications standard that is generally used for the electronic money distributed in Japan is different from the communications standards that are generally used overseas for contactless payment chips.

Figure 4-8: Embedding contactless payment chip required or not

Response	Respondents	Percentage
Yes	83	30%
No	197	70%
Respondents (cumulative total)	280	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies that answered “Yes” to the above question were asked the benefits of embedding the contactless payment chip provided by the payment network operator, the responses were as follows.

Figure 4-9: Benefits of embedding contactless payment chip provided by payment network operator (multiple responses permitted)

Response	Responses	Percentage
Increase in amounts of payments	39	49%
Increase in number of members	20	25%
Reduction of costs	3	4%
No benefits	23	29%
Others	12	15%
Respondents (cumulative total)	79	

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked how much annual expenses would increase when the contactless payment chip provided by the payment network operator was embedded compared to when it was not embedded, the responses were as follows.

Figure 4-10: Additional annual expenses when contactless payment chip provided by payment network operator was embedded

Response	Respondents	Percentage
1 yen or more but less than 10 million yen	29	37%
10 million yen or more but less than 100 million yen	27	34%
100 million yen or more but less than 500 million yen	5	6%
500 million yen or more but less than 1 billion yen	2	3%
1 billion yen or more but less than 2 billion yen	1	1%
2 billion yen or more	0	0%
No change	5	6%
Others	10	13%
Respondents (cumulative total)	79	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies responding that there was an increase in annual expenses (responses other than “No change” and “Others”) were asked whether or not the increase in expenses was balanced with the benefits to the company, the responses were as follows.

Figure 4-11: Relationship between increase in expenses and benefits to credit card company

Response	Respondents	Percentage
Balanced	6	9%
Not balanced now, but expected to be balanced in the future	25	39%
Not balanced now and not expected to be balanced in the future	23	36%
Others	10	16%
Respondents (cumulative total)	64	100%

Source: The responses from the written survey of the credit card companies

The main opinions of the payment network operators and the credit card companies regarding mandatory embedding of contactless payment chips were the followings.

<Payment network operators>

- Embedding a contactless payment chip in credit cards is intended to contribute to shortening the transaction processing time and improving transaction safety, and is also extremely important for promoting cashless payments.

- Embedding a contactless payment chip in credit cards increases the credit card value and will also generate profits for the credit card company in the future.

- In general, expenses for issuing cards should be borne by a credit card company.

- The payment network operator is making efforts to reduce the burden on credit card companies resulting from embedding a contactless payment chip in credit cards. These efforts include signing contracts with the credit card companies under which a portion of the card issuing expenses is borne by the payment network operator and introducing the companies which will enable the credit card companies to reduce the card issuing expenses.

<Credit card companies>

- The payment network operator is requiring the embedding of a contactless payment chip and the costs are an extremely large problem. Specifically, being forced to take this action when the expenses are expected to increase by hundreds of millions of yen while payment terminals where contactless payment can be used are virtually unavailable in Japan is something that has no rational explanation from a cost-benefit perspective.

- The payment network operator is requiring embedding a contactless payment chip, however, the ultimate question is whether or not there is any benefit to the card members when there are few merchants accepting the chip-based payment. If convenience improves as a result of efforts by the payment network operator, there will be benefits to the card members and this will also be good for our credit card company.

3. Prohibitions against Embedding Multiple Contactless Payment Chips

When the credit card companies were asked whether or not, when a contactless payment chip provided by a payment network operator was embedded in credit cards, the payment network operator had prohibited from embedding other contactless payment chips (e.g., electronic money) in the card or had noticed that it would prohibit such embedding in the future, the responses were as follows.

Figure 4-12: Prohibited or not from embedding multiple contactless payment chips

Response	Respondents	Percentage
Yes	18	7%
No	254	93%
Respondents (cumulative total)	272	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies that responded "Yes" to the above question were asked how to deal with the prohibitions, the responses were as follows.

Figure 4-13: How to deal with prohibitions against embedding multiple contactless payment chips

Response	Respondents	Percentage
Will get granted a temporary exemption and will continue to embed other contactless payment chips	5	29%
Will not embed other contactless payment chips	9	53%
Has not been decided	1	6%
Other	2	12%
Respondents (cumulative total)	17	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies that issued credit cards in which electronic money, etc. was embedded (83 companies) were asked the reason for doing so, the responses were as follows.

Figure 4-14: Reasons for embedding electronic money, etc. in credit cards (multiple responses permitted)

Response	Responses	Percentage
Embedding multiple payment chips will increase the credit card value	60	72%
The payment chip is provided by our credit card company or our group company	41	49%
Income from fees is expected	11	13%
Other	6	7%
Respondents	83	

Source: The responses from the written survey of the credit card companies

The main opinions of the payment network operators and the credit card companies regarding prohibitions against embedding multiple contactless payment chips were the followings.

<Payment network operators>

- For reasons of avoiding confusion among card members and for technical reasons, in general other payment chips provided by competitor payment network operators should not be embedded in the same credit card in which a contactless payment chip has been already embedded. However, the additional embedding of electronic money is handled flexibly when an exception is appropriate.

<Credit card companies>

- The additional embedding of electronic money is at present only admitted as an exception, and we credit card companies do not know whether or not the exception will continue to be admitted.

4. Most Favored Nation Clauses

A MFN (most favored nation) clause means, for example, that if a credit card company also deals with other card brands, then the terms and conditions of transaction for the first card brand must be equal to or more favorable than those for the other card brands. Whether or not a MFN clause was included in franchise contracts between payment network operators and credit card companies was as follows.

Figure 4-15: MFN clause included or not

Response	Respondents	Percentage
MFN clause included	17	6%
No MFN clause	259	94%
Respondents (cumulative total)	276	100%

Source: The responses from the written survey of the credit card companies

When the credit card companies that responded "MFN clause included" were asked the specific restrictions they were subject to, the responses were as follows.

Figure 4-16: Specific details of the restrictions (multiple responses permitted)

Response	Responses	Percentage
Points granted to credit card members upon initial enrollment must not be treated differently among card brands	4	29%
Points granted to credit card members according to the amounts of payments must not be treated differently among card brands	4	29%
A particular card brand must not get special treatment in member recruitment pages or advertisements	9	64%
Merchant discount fees must not be treated differently among card brands	0	0%
Others	2	14%
Respondents (cumulative total)	14	

Source: The responses from the written survey of the credit card companies

When the credit card companies were asked the competition means they considered to be important when conducting the card issuing business, the responses were as follows.

Figure 4-17: Important competition means in card issuing business (top 5, multiple responses permitted)

Response	Responses	Percentage
Benefits (e.g., points) according to the amounts of payments	168	76%
Annual membership fees	147	67%
Benefits (e.g., points) upon initial enrollment	138	63%
Brand recognition and trust	121	55%
Number of shops where credit cards can be used	75	34%
Respondents	220	

Source: The responses from the written survey of the credit card companies

The main opinions of the payment network operators and the credit card companies regarding MFN clauses were the followings.

<Payment network operators>

● Restricting certain actions by credit card companies in order to protect the brand image may in some cases be beneficial to both the payment network operator and the credit card companies.

● Although not a MFN clause, our payment network operator restricts credit card companies from providing service that is deliberately inferior in comparison with other card brands for reasons of maintaining the minimum necessary level of service. However, there have in fact never been any actual penalties imposed.

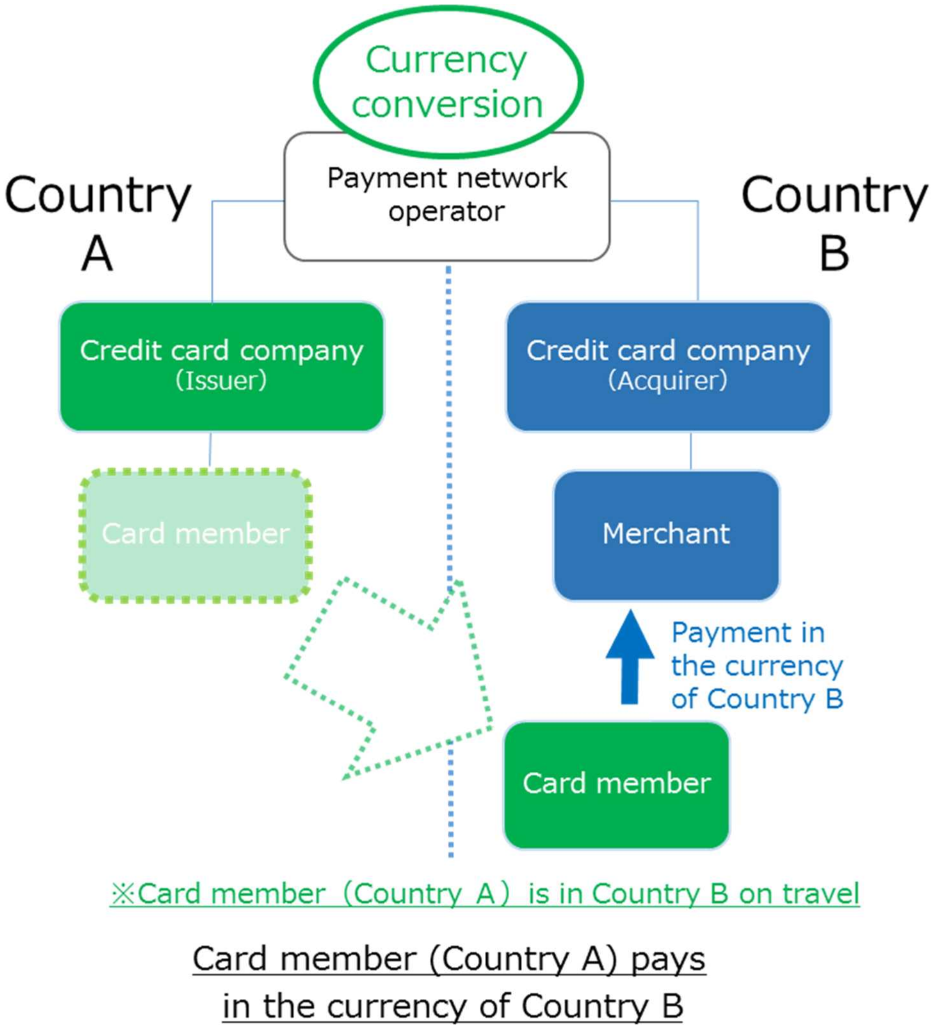
<Credit card companies>

● The payment network operator requires that its brand and other brands be treated equally, for example by restricting campaigns that boost points only for a particular card brand. If this restriction did not exist, our credit card company would like to conduct campaigns that boost points only for a particular card brand.

5. Dynamic Currency Conversion Services

When a card member uses a credit card to purchase a product in a country where the currency is different from the currency in his or her home country, ordinarily the purchase price in the member's home currency is not known at the point of sales, and notice of the purchase price in the home currency is provided by the credit card company in the home country at a later time, after currency conversion made in the process of settlements by the payment network operator.

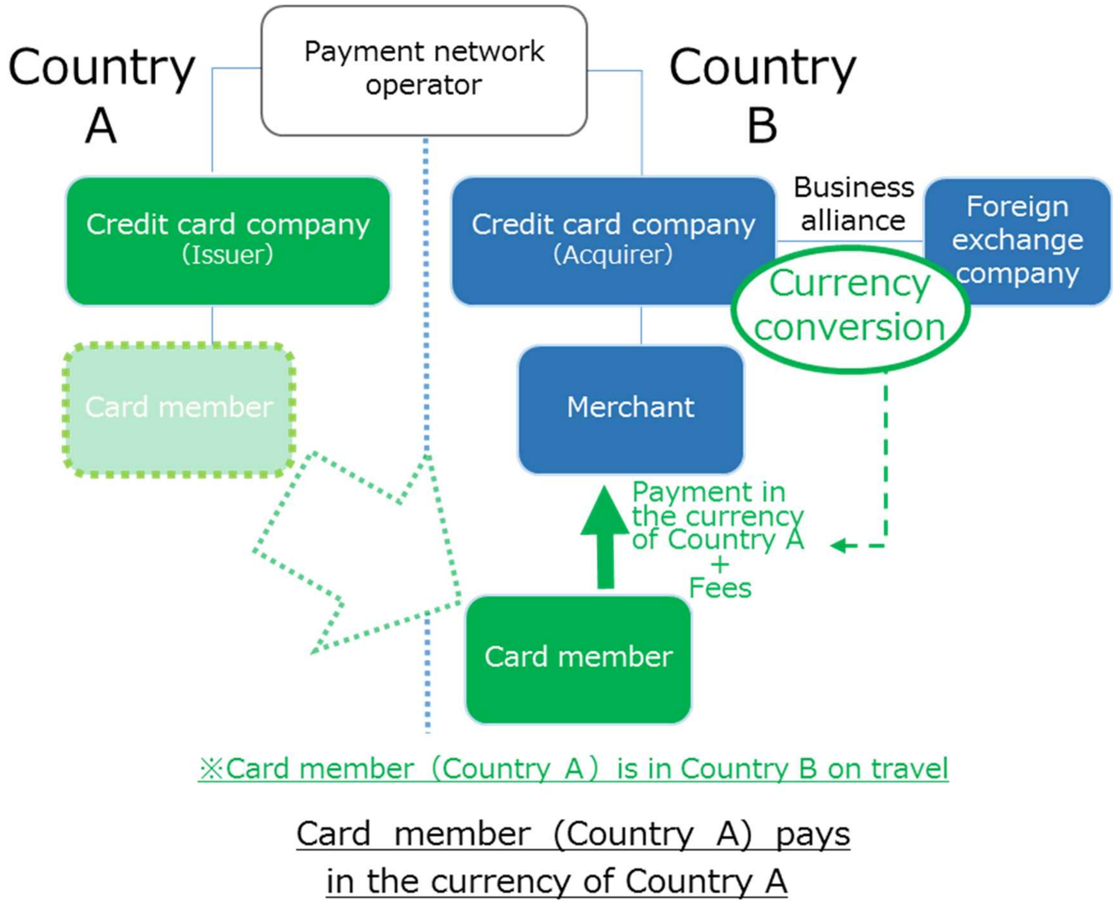
Figure 4-18: Cases in which dynamic currency conversion service is not used



Source: The survey results

On the other hand, some credit card companies, via merchants, provide service that allows the card members to confirm purchase prices in their home currency at the point of sales, by conducting currency conversion through collaboration, etc. with foreign exchange companies[31] (in this case the payment network operators do not conduct currency conversion in the process of settlements). This kind of service is referred to as a "dynamic currency conversion service"[32]. The credit card company which provides such a service charges the card members fees for the service.

Figure 4-19: Cases in which dynamic currency conversion service is used



Source: The survey results

[31] Those which operate, as their principal business, selling and buying of foreign currencies.
[32] Such a service also goes by the name CPC (cardholder preferred currency) service.

When the credit card companies in Japan were asked whether or not they provided a dynamic currency conversion service, the responses were as follows.

Figure 4-20: Providing dynamic currency conversion services or not

Response	Responses	Percentage
Providing	52	31%
Not providing	114	69%
Respondents	166	100%

Source: The responses from the written survey of the credit card companies

The credit card companies pay certain fees to the payment network operator according to the transaction volume. The credit card companies argued on this point that no explanation had been provided of the reason why the fee paid to the payment network operator was higher when a dynamic currency conversion service was used than when not used, and that this was not understandable. The main opinions of the payment network operators regarding dynamic currency conversion services were the followings.

<Payment network operators>

- If a credit card company and a merchant provide a card member with a dynamic currency conversion service, the payment network operator makes a number of back-end system adjustments, etc. to ensure that the subsequent payment process precisely reflects the choice to use the service made by the card member.

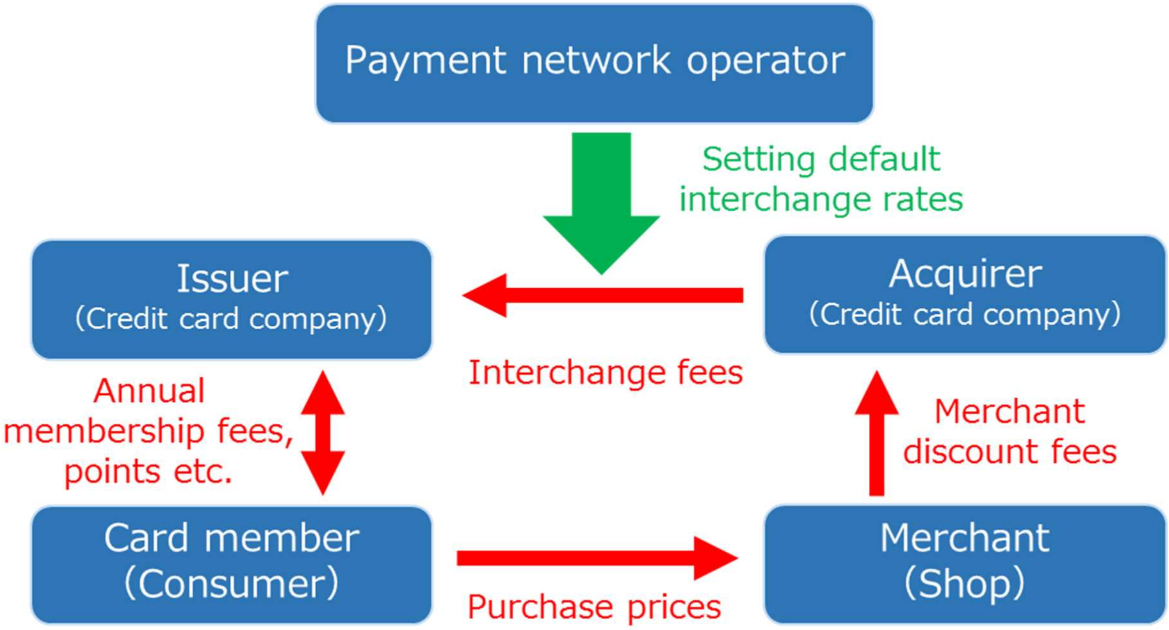
- The dynamic currency conversion service enables a card member, who shows his or her credit card issued in their home country to a merchant, to make settlement in their home currency. The credit card company and the merchant are able to provide the service by using the payment network of the payment network operator, and that means the payment network has the added value. The credit card company and the merchant in many cases make a profit by providing the service.

6. Interchange Fees

In off-us transactions, an acquirer pays an issuer a certain amount of money (interchange fees) (Figure 4-21). Interchange fees are one of the main costs for the acquirers, so an increase in the interchange rates may lead to an increase in the merchant discount fees. An increase in the merchant discount fees may also lead to an increase in the purchase prices. On the other hand, interchange fees are one of the main revenues for the issuers, so a decrease in the interchange rates may lead to a decrease in the points granted to the card members or an increase in the annual membership fees which the card members pay to the issuers.

Some payment network operators have set themselves the interchange rates according to the types of business, etc. so as to maximize the transactions using the payment networks of their own. Under the established system, this rate is positioned as the default interchange rate, and this rate is used when an interchange rate is not set bilaterally between an issuer and an acquirer.

Figure 4-21: Overview of interchange fees[33]



Source: The survey results

[33] The actual flows of money are as shown in Figure 2-8.

In this report, when a payment network operator has set the default interchange rate, an interchange fee that is used based on the rate set bilaterally between an issuer and an acquirer is referred to as a “bilateral interchange fee”. The credit card companies were asked whether or not a bilateral interchange rate was set, but no cases of setting a bilateral interchange rate were confirmed. Nearly all the credit card companies reported that they also had no plans to set the rate in the future. The reasons were as follows.

Figure 4-22: Reasons for not planning to set bilateral interchange rate in future (multiple responses permitted)

Response	Responses	Percentage
Negotiating with a large number of other parties is difficult	47	45%
Negotiations are unlikely to yield an agreement	33	31%
(Even if negotiations yield an agreement,) it is not expected that this rate will result in any particular advantages compared with the default interchange rate	26	25%
Our credit card company performs no off-us transactions where an interchange fee would occur	5	5%
Other	41	39%
Respondents	105	

Source: The results of a survey additionally conducted of the credit card companies, which was based on the results of the written survey of the payment network operators and the credit card companies

The main opinions of the payment network operators and the credit card companies regarding default interchange rates were the followings.

<Payment network operators>

● Default interchange rates are independently set by a payment network operator. We payment network operators do not gain any profit from the interchange fees themselves.

● If a payment network operator did not set the default interchange rate, an individual issuer and an acquirer would have to sign a contract bilaterally between the two parties that set the rates. However, requiring this kind of process is not practical for a globe-spanning payment network.

● As far as our payment network operator is aware, there are virtually no cases where a bilateral interchange fee has been set in Japan.

<Credit card companies>

● Our credit card company did not know that it was possible to set the interchange rate bilaterally between an issuer and an acquirer in the first place.

● Because an acquirer pays interchange fees and an issuer receives them, the two parties are in an opposing relationship. Even if we credit card companies wanted to set an interchange rate higher or lower than the default interchange rate set by the payment network operator, reaching such an agreement would be difficult.

The main opinions of the payment network operators, the credit card companies, the merchants and the experts regarding the relationship between interchange fees and merchant discount fees, etc. were the followings.

<Payment network operators>

● Merchant discount rates are what can be set freely by credit card companies. Because in some cases the merchant discount fee is lower than the interchange fee, we credit card companies understand that the interchange fee is not necessarily serving as a lower limit for the merchant discount fees.

<Credit card companies>

● In general, merchant discount fees are set within a range that will not result in a loss, using the interchange rates as a reference.

● When conducting merchant acquiring business that involves off-us transactions, default interchange rates are extremely important.

● The merchant discount rates are various. However, in cases where the rates are low, we credit card companies receive only an amount that prevents us from running a loss when the interchange fee and our costs are subtracted from the merchant discount fee.

<Merchants>

● Until several years ago, there were negotiations for lowering the merchant discount fees. However, it appears that the merchant discount fees have been reduced to the limit and there have been no such negotiations in the past few years.

<Experts>

● Even if the interchange rates are lowered, although the merchant discount fees may be reduced, at the same time this will reduce the income of the issuers. As a result, points granted to the card members may be reduced or the annual membership fees may be increased.

Overseas, related to interchange fees, payment network operators have disclosed the default interchange rate in some countries, but these rates are not disclosed in Japan. The main opinions of the payment network operators, the credit card companies and the experts regarding the disclosure of the default interchange rate were the followings.

<Payment network operators>

● The default interchange rate is confidential information that is set after allocation of immense resources. As a result, it is not something that should be shared with competitors and is not suitable for disclosure. Because the default interchange rate is applied to transactions between an issuer and an acquirer, it is appropriate that only those parties involved be able to learn this information.

● The default interchange rate is not disclosed in Japan only because the lack of disclosure has not been considered a problem by the parties involved. So it would be possible to disclose the default interchange rate that is applied to transactions in Japan in the same way as in other markets around the world.

<Credit card companies>

● Because interchange fees are the cost of conducting merchant acquiring business, disclosure of the default interchange rate is not an idea that can be easily accepted by credit card companies. On the other hand, if there are merchants that are in a loss on transactions, it would be possible to negotiate for raising merchant discount fees based on the disclosed rates, so there are also some good aspects.

- Because different rates are set for different industries, if the default interchange rate is disclosed, dissatisfaction could be expected in some industries.

<Experts>

- In the credit card market, transaction structures are often complex and opaque. Transaction transparency is necessary in order to promote cashless payments as well, and as one part of efforts for that purpose, the default interchange rate should be disclosed.

Section 5: Promoting Fair Competition in Credit Card Market

1. Environment of Competition in Credit Card Market

(1) Overview

In the market where payment network operators and credit card companies enter into franchise contracts, there is competition among card brands to acquire credit card companies.

In the market (card issuing market) where consumers and credit card companies sign card membership contracts, there is competition among credit card companies to acquire card members.

Moreover in the market (merchant acquiring market) where shops and credit card companies make merchant contracts, there is competition among credit card companies to acquire merchants.

When a payment network operator conducts card issuing business and merchant acquiring business through multiple credit card companies, there is also competition within the brand in the card issuing market and the merchant acquiring market.

(2) Bargaining Position of Payment Network Operators

The trade terms between enterprises are basically left to the independent judgment of the transacting parties. Therefore, as a matter of course, the trade terms of either party could become disadvantageous compared to those of the other party or to those under a previous contract in any transaction, as a result of free negotiations between the transacting parties. However, if a party who has a superior bargaining position against the other transacting party makes use of such position to impose a disadvantage on the transacting party, unjustly in light of normal business practices, such act would impede transactions based on the free and independently select of the said transacting party, and put the said transacting party in a disadvantageous competitive position against its competitors, while putting the party having a superior bargaining position in an advantageous competitive position against its competitors. Since such act poses the risk of impeding fair competition, it is regulated under the AMA as "abuse of a superior bargaining position," which constitutes a category of unfair trade practices.

When a payment network operator is in a superior bargaining position in a transaction between a payment network operator and a credit card company, it means such a case where if the payment network operator makes a request that is substantially disadvantageous for the credit card company, the credit card company would be unable to avoid accepting such a request, on the grounds that termination of the contract with the payment network operator brings about significant problem to the credit card company's business management. In determining the presence or absence of a superior bargaining position, the degree of dependence by the credit card company on the transactions with the payment network operator, the position of the payment network operator in the market, the possibility of the credit card company changing its business counterpart, and other concrete facts indicating the need for the credit card company to carry out transactions with the payment network operator are comprehensively considered.

Whether or not a payment network operator is in a superior bargaining position over a credit card company varies depending on the individual transaction environment. As a result, it is determined on a case-by-case basis. However, the results of the written survey of the credit card companies and the interviews included the followings. (1) At more than half of the credit card companies (including those which have a selection of a single card brand), 60% or more of the company’s total transaction volume was with a particular card brand (Figure 3-12 and Figure 3-14). (2) Many credit card companies recognized that changing the counterparty payment network operator was difficult (Figure 3-15). (3) The reasons why changing the counterparty was difficult included the followings. “Changing the counterparty payment network operator is not something that can be done easily, as it would require changing the card numbers of the card members and making system modifications”. “In the merchant acquiring business, it is important to provide a wide range of services to the merchants. If we credit card companies did not have transactions with a particular card brand, the shops would not choose us as a counterparty. Therefore, we simply do not have the option of terminating transactions with a particular payment network operator”. Based on these, it is believed that there is a strong probability that particular payment network operators are in a superior bargaining position over the credit card companies.

(3) Indirect Network Effects

Payment network operators and credit card companies are the enterprises that provide platforms which combine two different user groups consisting of card members and merchants, and the level of use by each group affects the other. In the credit card market, there is increasing incentive for shops to become merchants of a certain card brand when a card brand has a larger number of credit cards issued. Conversely, there is also increasing incentive for consumers to become card members of a certain card brand when that brand has more merchants.

2. Understanding from Perspective of the AMA and Competition Policy

(1) Unilateral Revision of Contract Contents

A. Current Conditions

According to the written survey of the credit card companies, there were responses indicating that the franchise contract between the payment network operator and the credit card company included a comprehensive consent clause related to revisions of contract contents, and that unilateral revision of the contract had been conducted in transactions between the payment network operator and the credit card company (Figure 4-1). Many credit card companies indicated that the possible disadvantages resulting from such a contract provision and a trade practice included "Increase in the fee rates or amounts listed in the initial contract", "New fees that did not exist in the initial contract", and "Expenses and trouble for system improvements" (Figure 4-2).

The payment network operators expressed the following opinion. "It is necessary to timely revise the rules in accordance with various developments in the credit card market such as revisions of applicable laws in each country, maintaining the level of security, and preventing unauthorized transactions. If the consent from the credit card companies must be obtained on all such revisions, there is the risk that the payment network will be unable to function".

B. Understanding from Perspective of the AMA and Competition Policy

Conduct of including a comprehensive consent clause related to revisions of contract contents in a franchise contract between a payment network operator and a credit card company is not in itself problematic under the AMA. However, as explained in 1 (2), when it is conceivable that there is a strong probability that the particular payment network operators have the superior bargaining positions over the credit card companies, and if the payment network operator in a superior bargaining position makes a unilateral revision of the contract contents without fully considering the opinions of the credit card company, and the credit card company suffers disadvantage as a result of this revision, then this is likely to be in violation of the AMA (Unfair Trade Practices: Abuse of a Superior Bargaining Position).

Whether or not conduct by a payment network operator would cause a problem under the AMA is determined on a case-by-case basis. In relation to the fees and bearing expenses, issues such as the followings will be taken into consideration. (1) Whether or not the payment network operator includes the volume of transactions unrelated to the services provided by the payment network operator in the transaction volume which generates fees. (2) Whether or not the payment network operator forces the credit card companies to use the services that are of no benefit to them and to pay a price for such services. (3) Whether or not the payment network operator requires the credit card companies to pay fees or to bear expenses that are significantly unbalanced when comparing the services provided by the payment network operator and the benefits received by the credit card company.

From the perspective of preventing conduct that violates the AMA, the payment network operator should keep the above considerations in mind, fully explain, with grounds, the reasons, etc. for the contract revision to the credit card company, and when receiving opinions about the revision of a contract from the credit card company, the payment network operator should take them into consideration whenever possible.

(2) Bearing of Expenses Involved with Mandatory Embedding of Contactless Payment Chips

A. Current Conditions

According to the written survey of the credit card companies, there were responses indicating that the payment network operators required the embedding of the contactless payment chip provided by that payment network operator when credit cards with the mark of that brand were issued, and that notification had been received indicating that such embedding would be required in the future (Figure 4-8). Regarding these restrictions, the payment network operators expressed the following opinions. "Embedding a contactless payment chip in credit cards is intended to contribute to shortening the transaction processing time and improving transaction safety, and is also extremely important for promoting cashless payments".

"Embedding a contactless payment chip in credit cards increases the credit card value and will also generate profits for the credit card company in the future".

On the other hand, according to the results of the written survey of the credit card companies, regarding the relationship between the increase in expenses when embedding the contactless payment chip provided by the payment network operator and the benefits to the credit card company, there were a number of credit card companies which believed that they were "Not balanced now and not expected to be balanced in the future" (Figure 4-11).

In addition, the payment network operators expressed the following opinions. "In general, the expenses for issuing cards should be borne by the credit card company". "The payment network operator is making efforts to reduce the burden on credit card companies resulting from embedding a contactless payment chip in credit cards. These efforts include signing contracts with the credit card companies under which a portion of the card issuing expenses is borne by the payment network operator and introducing the companies which enable the credit companies to reduce the card issuing expense".

B. Understanding from Perspective of the AMA and Competition Policy

Conduct by a payment network operator of requiring a credit card company to embed the contactless payment chip provided by the payment network operator in the credit cards is not in itself problematic under the AMA. However, as explained in 1 (2), when there is a strong probability that the particular payment network operators have the superior bargaining positions over the credit card companies, and because there are many credit card companies which assert that the expenses of such embedding outweigh the benefits, if a payment network operator in a superior bargaining position conducts such as unilaterally requiring a credit card company to bear all the expenses required for embedding without giving full consideration to the opinions of the credit card company, and such conduct causes disadvantage to the credit card company, then this is likely to be in violation of the AMA (Unfair Trade Practices: Abuse of a Superior Bargaining Position).

The payment network operator expressed the opinion that "In general, the expenses for issuing cards should be borne by a credit card company". However, it is necessary to keep in mind that such conduct is not automatically justified simply because it conforms to currently existing trade practices.

(3) Prohibitions against Embedding Multiple Contactless Payment Chips

A. Current Conditions

According to the written survey of the credit card companies, there were responses indicating that when a contactless payment chip provided by a payment network operator is embedded in credit cards, the payment network operator had prohibited from embedding other contactless payment chips (e.g., electronic money) in the card or had noticed that it would prohibit such embedding in the future (Figure 4-12). Regarding this prohibition, the payment network operator expressed the following opinion. "For reasons of avoiding confusion among card members and for technical reasons, in general other payment chips provided by competitor payment network providers should not be embedded in the same credit card in which a contactless payment chip has been already embedded. However, the additional embedding of electronic money is handled flexibly when an exception is appropriate".

B. Understanding from Perspective of the AMA and Competition Policy

Conduct by a payment network operator of prohibiting a credit card company from embedding the payment chips provided by competitor payment network operator in a credit card with the mark of the first card brand is not in itself problematic under the AMA. However, conduct of prohibiting the embedding of electronic money that is not provided by a competitor card brand in credit cards, where the contactless payment chip of the first payment network operator is embedded, reduces the opportunities for agencies using electronic money to provide their services to consumers through transactions with the credit card company. If such conduct produces market foreclosure effects[34], then this is likely to be in violation of the AMA (Unfair Trade Practices: Trading on Exclusive Terms, etc.).

(4) Most Favored Nation Clauses

A. Current Conditions

According to the written survey of the credit card companies, there were responses indicating that franchise contracts between the payment network operators and the credit card companies include MFN clauses (Figure 4-15). Regarding this restriction, the payment network operator expressed the following opinion. “Restricting certain actions by credit card companies in order to protect the brand image may in some cases be beneficial to both the payment network operator and credit card companies”. The credit card company expressed the following opinion. “The payment network operator requires that its brand and other brands be treated equally, for example by restricting campaigns that boost points only for a particular card brand. If this restriction did not exist, our credit card company would like to conduct campaigns that boost points only for a particular card brand”.

B. Understanding from Perspective of the AMA and Competition Policy

For a credit card company which has a selection of multiple card brands, establishing clear differences between the card brands, depending on the transaction terms with the payment network operators, is conduct which contributes to promoting competition between card brands through the credit card company. A MFN clause may restrain such procompetitive conduct. When a credit card company is unable to promote acquisitions, etc. of card members for a particular card brand due to a MFN clause, the effects may limit competition between credit card companies within that card brand. In this way, MFN clauses may also impede competition through the credit card companies between card brands, as well as within the card brand itself. If market foreclosure effects or price maintenance effects[35] occur as a result of MFN clauses, then this is likely to be in violation of the AMA(Unfair Trade Practices: Trading on Restrictive Terms).

(5) Dynamic Currency Conversion Services

A. Current Conditions

The credit card companies pay certain fees to the payment network operator according to the transaction volume. The credit card companies argued on this point that no explanation had been provided of the reason why the fee paid to the payment network operator was higher when a dynamic currency conversion service was used than when not used, and that this was not understandable. On the other hand, the payment network operators expressed the following opinions. “If the credit card company and the merchant provide a card member with a dynamic currency conversion service, the payment network operator makes a number of back-end system adjustments to ensure that the subsequent payment process precisely reflects the choice to use the service made by the card member”. “The dynamic currency conversion service enables a card member, who shows his or her credit card issued in their home county to a

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[34] “Cases where vertical non-price restraints have foreclosure effects” refer to cases where a vertical non-price restraint tends to cause situation that new entrants to the relevant market and the enterprise’s existing competitors are excluded and/or opportunities available to them are reduced (for example, a situation where such restraint makes difficult for them to easily acquire alternative trading partners, and causes increase in their expenses for conduct of business and/or their discouragement from entering the market or developing new products) (*GUIDELINES CONCERNING DISTRIBUTION SYSTEMS AND BUSINESS PRACTICES UNDER THE ANTIMONOPOLY ACT:* PART I-3 (2) a).

[35] “Cases where vertical non-price restraints have price maintenance effects” refer to cases where a vertical non-price restraint tends to impede competition among a counterparty to the restraint and its competitors and enable the counterparty to reasonably freely control its prices in its own discretion and thus maintain or raise its prices for a product or products in question (*GUIDELINES CONCERNING DISTRIBUTION SYSTEMS AND BUSINESS PRACTICES UNDER THE ANTIMONOPOLY ACT:* PART I-3 (2) b). “Cases where vertical non-price restraints have price maintenance effects” referred to here is considered as, for example, that a credit card does not increase points for card members and not lower annual membership fees paid by card members.

merchant, to make settlement by their home currency. The credit card company and the merchant are able to provide the service by using the payment network of the payment network operators, and that means the payment network has the added value. The credit card company and the merchant in many cases make a profit by providing the service".

B. Understanding from Perspective of the AMA and Competition Policy

In general payment network operators can freely set the kinds and rate of fees etc. received from credit card companies. However, as explained in (1) B, payment network operators should keep in mind not to require fees, etc. which are significantly unbalanced when comparing the level of fees, etc. for the services provided by the payment network operators and the benefits received by the credit card companies. If a payment network operator sets the higher rate of certain fees which the credit card companies pay when providing dynamic currency conversion services, compared with the rate of the fees when the service is not provided, the payment network operator should keep the above consideration in mind, fully explain, with grounds, the reasons, etc. to the credit card companies, and take their opinions into consideration whenever possible.

Dynamic currency conversion services, which allow card members to confirm purchase prices in their home currency when purchasing a product, provide a new choice to card members. For merchants, this may improve the customer service. So, providing a dynamic currency conversion service by credit card companies diversifies the competition means for credit card companies in acquiring merchants, and may enhance competition in the merchant acquiring market. Therefore, if a payment network operator takes action such as setting significantly higher fees for a credit card company which provides such a service, and the credit card company abandons the provision of the service, then this is likely to be in violation of the AMA (Unfair Trade Practices: Refusal to Trade, etc.).

(6) Interchange Fees

A. Current Conditions

Some payment network operators themselves set the default interchange rate and the rate is used when a bilateral interchange fee is not set between an issuer and an acquirer. Under these conditions, no cases are confirmed where an issuer and an acquirer decide a bilateral interchange fee between themselves, and the default interchange rate decided by the payment network operator is generally used. Regarding the reason, the credit card companies expressed the following opinion. "Because an acquirer pays interchange fees and issuer receives them, the two parties are in an opposing relationship. Even if we wanted to set interchange rate higher or lower than the default interchange rate set by the payment network operator, reaching such an agreement would be difficult".

Regarding the relationship between the interchange fees and merchant discount fees, the credit card companies indicated that "In general, the merchant discount fees are set within a range that will not result in a loss, using the interchange rates as a reference". The view implied that the interchange fees, to some extent, affected the merchant discount fees. Regarding the effect on merchant discount fees, etc. when the interchange fees were lowered, experts provided the following opinion. "Even if the interchange rates are lowered, although merchant discount fees may be reduced, at the same time this will reduce the income of the issuers. As a result, points granted to card members may be reduced or annual membership fees may be increased".

Overseas, related to interchange fees, payment network operators have disclosed the default interchange rate in many countries and regions, but these rates are not disclosed in Japan. Regarding this point, the payment network operators expressed the following opinions. "The default interchange rate is confidential information that is set after allocation of immense resources. As a result, it is not something that should be shared with competitors and is not suitable for disclosure. Because the default interchange rate is applied to transactions between an issuer and an acquirer, it is appropriate that only those parties involved be able to know this information". "The default interchange rate is not disclosed in Japan only because the lack of disclosure has not been considered a problem by the parties involved. So it would be possible to disclose the default interchange rate that is applied to transactions in Japan in the same way as in other markets in the world".

B. Understanding from Perspective of the AMA and Competition Policy

(A) Issues related to Setting of Default Interchange Rate

The conduct by a payment network operator of independently setting the default interchange rate is not automatically problematic under the AMA. However, if the default interchange rate is decided jointly by the payment network operator and credit card companies, or if multiple credit card companies jointly agree to use the default interchange rate set by the payment network operator, then this is likely to be in violation of the AMA (Unreasonable Restraint of Trade).

(B) Disclosure of Default Interchange Rate

The interchange fees are one of the main costs for the acquirer, so an increase in interchange rate may lead to an increase in merchant discount fees. On the other hand, interchange fees are one of the main revenues for the issuer, so a decrease in interchange rate may lead to a decrease in points granted to the card members and an increase in annual membership fees which the card members pay to the issuer.

At present, in many countries and regions, it is possible for the card members and merchants who are affected by the interchange fees to know the default interchange rate as that is disclosed, however, it is not possible for the card members and the merchants to know this information in Japan.

If the default interchange rate is disclosed, this would improve market transparency and there would be some changes in consumers' selection of payment network operators and credit card companies, and merchants' attitude toward negotiation on merchant discount fees with credit card companies (for example, it will be easier for a merchant to ask for lowering the merchant discount fees, by referring to the default interchange rate). Such changes would make more vigorous competition in both the card issuing market and the merchant acquiring market, and that, through affecting the setting of default interchange rate, may result in more appropriate default interchange rate. Therefore, it is considered preferable that the payment network operators which set the default interchange rate also disclose it within Japan.

Some payment network operators expressed the opinion that the default interchange rate was confidential information and not suitable for disclosure. However, the default interchange rate is disclosed in many countries and regions, and it is believed that there would be no problem with disclosing it in Japan.

3. Future Plans of the JFTC

At present, the amounts of payments using credit cards are growing, and it is expected that the amounts will continue to increase in the future. Many consumers use credit cards for their everyday lives, so credit cards are an influential item on people's livings. Also, circumstances in the credit card market would increasingly affect business activities as the increase in the amounts of payments using credit cards. Therefore, the importance of fair and free competition in the credit card market will further increase in the future.

The JFTC hopes that payment network operators and credit card companies will utilize this report to prevent violations of the AMA and take steps for procompetitive practices, and that these actions will promote competition in the credit card market and improve benefits to consumers.

The JFTC will continue to pay close attention to trends in the credit card market and take strict actions against AMA violations.