

Released under FOI

Our Ref: CS1043701
Contact Officer: Marie Monforte
Contact Phone: 07 3835 4666



**Australian
Competition &
Consumer
Commission**

25 January 2017

PO Box 12241
George Street Post Shop
Brisbane Qld 4003

Mr Garth Mathews & Mr Brett Mathews
Secure Parking Pty Ltd
Level 13, Northpoint Tower
100 Miller Street
North Sydney, NSW 2060

Level 24
400 George Street
Brisbane Qld 4000
tel: (07) 3835 4666
fax: (07) 3835 4653
www.accc.gov.au

*By email: garth@secureparking.com.au
brett@secureparking.com.au*

Dear Sirs,

Alleged Excessive Surcharging by Secure Parking Pty Ltd

The Australian Competition and Consumer Commission (ACCC) has received a complaint alleging that Secure Parking Pty Ltd (Secure Parking) may have charged a payment surcharge that is excessive and in contravention of section 55B of the *Competition and Consumer Act 2010 (CCA)*.

Specifically, it is alleged that Secure Parking is charging customers a 2.5% payment surcharge on all Credit and Debit Card payments at the Hotel Jen carpark facility located at 159 Roma Street, Brisbane. For your reference, please find attached the following:

- a) a photograph of Secure Parking signage at the Hotel Jen carpark facility taken on 18 January 2017, and
- b) a copy of a receipt for payment made using a Visa Debit Card at the Hotel Jen carpark facility, dated 20 January 2017.

The ACCC is responsible for administering and enforcing the CCA. In February 2016 the CCA was amended to insert Part IVC, which deals with payment surcharges. The object of the new provisions is to ensure that payment surcharges are not excessive and reflect the costs of using the payment methods for which they are charged. The rules for determining permitted surcharges are set out in Reserve Bank of Australia Standard No. 3 of 2016 (**the Standard**) which was published on 26 May 2016. The Standard took effect on 1 September 2016 for large merchants (which meet certain turnover, asset and employee thresholds) and will take effect from 1 September 2017 for all other merchants.

The Standard defines a Large Merchant as one that satisfies two or all of the following:

- (a) the consolidated gross revenue for the Financial Year ended 30 June 2015 of the Merchant and its Related Bodies Corporate was \$25 million or more;

Released under FOI

- (b) the value of the consolidated gross assets at 30 June 2015 of the Merchant and its Related Bodies Corporate was \$12.5 million or more;
- (c) as at 30 June 2015 the Merchant and its Related Bodies Corporate between them had 50 or more employees (whether full time, part time, casual or employed on any other basis).

Section 55B of the CCA stipulates that a corporation must not charge a payment surcharge that is excessive. A surcharge will be excessive if it exceeds the reasonable costs to the merchant of accepting the payment type. The Standard sets out the permitted costs which a merchant can include when calculating a payment surcharge.

If a merchant chooses to impose a surcharge for payments made by credit and debit cards, the merchant is only able to calculate the surcharge based on certain costs it incurred, as set out in the Standard. These include Merchant Service Fees, terminal fees, and any other fees which are paid to a third party for processing card transactions. A merchant is not permitted to include any of its own internal costs when calculating its surcharge.

The purpose of this letter is to invite you to provide comments in response to the complaint and to seek information from you.

Request for information

In order to fully assess the matter, we request that you provide responses to the following questions and provide any relevant supporting documentation:

- 1) Pursuant to the definition set out in the Standard (above), is Secure Parking a Large Merchant?
- 2) What is the current level of payment surcharge Secure Parking charges customers at its Hotel Jen carpark facility for each credit card type (i.e Visa Credit, MasterCard Credit and American Express Companion Cards) when a customer uses a credit card for purchasing goods or makes payment to you?
- 3) What is the current level of payment surcharge Secure Parking charges customers at its Hotel Jen carpark facility for each debit card type (i.e. Visa Debit and MasterCard Debit) or EFTPOS when a customer uses such a payment method for purchasing goods or makes a payment to you?
- 4) What is the actual cost in percentage terms to Secure Parking of processing a payment for each of those credit/debit card types respectively? This information should be readily available from your Acquirer.
- 5) What other payment options (that do not attract a payment surcharge) are available to customers?

Released under FOI

- 6) Does Secure Parking impose a payment surcharge at its other car parking locations? Please provide a list of all of Secure Parking's car park locations that impose a payment surcharge for the use of debit and credit cards. Provide details (where applicable) of the surcharge rate that is payable at each car park respectively.
- 7) Has Secure Parking received any complaints from customers relating to credit card surcharges? Provide details of Secure Parking's complaint handling systems and a schedule setting out any customer complaints relating to surcharging and how they were managed by Secure Parking.
- 8) Please advise what actions (if any) does Secure Parking propose to take to address concerns it may have charged a payment surcharge that is excessive in contravention of the CCA?

In responding to our concerns and information request, please provide any other information or documents you consider may be relevant for our consideration.

The information and documents requested should be provided to this office by no later than **Thursday, 9 February 2017**.

If you wish to discuss anything in this letter further please contact Marie Monforte or myself on (07) 3835 4666 or via email at marie.monforte@accc.gov.au.

Yours sincerely,



Guy Launder
Director
Enforcement Operations QLD & NT

Released under FOI



secure

Hotel Jen Car Park

Monday to Sunday

0 – 10 Mins	Free
10 – 15 Mins	\$14.00
15 – 30 Mins	\$25.00
0.5 – 1 Hr	\$34.00
1 – 1.5 Hrs	\$49.00
1.5 – 2 Hrs	\$51.00
2 – 2.5 Hrs	\$64.00
2.5 – 3 Hrs	\$66.00
3 + Hrs	\$79.00
Lost Ticket	\$80.00

2.5% surcharge applies to credit and debit cards. Rates apply per entry and recommence 5.00am daily.
Entry subject to terms and conditions located at car park entry & throughout car park.

www.secureparking.com.au

Released under FOI

