



MERCHANT ADVISORY GROUP®

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Charles W. Scharf
Chief Executive Officer
Visa Inc.
900 Metro Center Blvd.
Foster City, CA 94404

Ajaypal Singh Banga
President and Chief Executive Officer
MasterCard
2000 Purchase Street
Purchase, NY 10577

Dear Messrs. Scharf and Banga:

Last year, I wrote to you expressing the Merchant Advisory Group's ("MAG") concerns about the shift to EMV technology in the United States. While merchants have been asking for an upgrade to EMV for years because it is better than magnetic stripe technology, the shift being undertaken now is later than it should be in the life-cycle of this technology and is being implemented without the security personal identification numbers (PINs) can bring and without any viable solution for addressing the inevitable shift of fraud to the Internet where merchants pay higher interchange yet bear nearly all of the costs of fraud. We are contacting you now – a year before the 2017 liability shift date determined by industry for fuel pumps – to inform you that the facts on the ground demonstrate a need to rethink the appropriateness and feasibility of the industry collectively being able to achieve fuel pump EMV acceptance by October 2017.

The in-store transition to EMV is being handled poorly by numerous stakeholders in the payments chain. Problems with the transition have included backlogs for the necessary hardware, software and programming delays and challenges, and complications with debit card technology due to decisions by your companies not to allow for the smoothest and most interoperable solution for all U.S. debit providers. By reserving one application identifier (AID) for your companies and segregating all other network solutions into a separate AID, programming, certification and other technical problems have confused and delayed the transition. Security deficiencies associated with implementing EMV without requiring cards to have PINs, as well as problems with some networks' unlawful restrictions on merchants' routing choices stemming from confusing and misleading screen prompts at the POS have also caused problems.

More than a year later, those concerns persist and new experience-based implementation issues have become apparent. Those problems were predictable – and we brought most of them to your attention ahead of time – but the industry went forward under your leadership without a plan to address these issues. The financial damage to MAG members, as well as the rest of the merchant community, run to billions of dollars and have to date resulted in a windfall of over 5 billion to card-issuing banks as a result of the liability shift your companies imposed while ignoring the real practical issues noted here which prevented the vast majority of merchants from making the 10/1/15 date set by your organizations.

Now, rather than addressing the challenges and shortfalls already plaguing retailers and other industry stakeholders with respect to in-store EMV, the industry is proceeding with yet another liability shift deadline for EMV implementation—that for fuel pumps in October 2017. Setting aside, for the moment, the appropriateness of private companies dictating a technology change of this magnitude based on the threat of fraud liability, the EMV transition for fuel pumps presents all of the problems we have faced in the EMV transition to date along with another set of predictable new and unique implementation hurdles. First, it is worth noting, our concerns about EMV technology without the enablement of PIN or another second authentication factor are only exacerbated in this context. The potential for fraud in stores and at fuel pumps is not solved by chip technology. Only protecting EMV chip cards with PIN or some other form of supplemental authentication that merchants can require based on their risk assessments will help significantly reduce this type of fraud.

Second, we anticipate and suggest the industry should be well aware of even more severe delays, implementation problems, and complexity in the fuel pump EMV transition than we have seen with in-store EMV roll-outs. Today, there are only two major manufacturers of fuel pumps. There are and will continue to be delays and supply limitations for new EMV-compliant pumps. Given the backlog that already exists for new pumps, the situation will be increasingly difficult as we get closer to October 2017. Alternatively, petroleum retailers will have to invest in expensive retrofit kits, which are also in short supply. Suppliers of EMV pump hardware are just now beginning the work to develop and program their payment applications. Then, once the hardware and software are ready, the industry will be left to deal with a limited number of certified installation technicians.

This is a familiar story. We were all aware of the fact that similar supply constraints created problems with the in-store EMV transition, despite the relatively simpler hardware and technology involved. Namely, there have been supply shortages and significant lag times for new in-store EMV terminals, approved programmers of the equipment (due at least in part to delayed release of specifications by your companies for EMV debit transactions), and for the required certifications of the new technology. Accordingly, many merchants in particular –through no fault of their own—were unable to complete the transition prior to the October 2015 deadline for the shift in fraud liability. Given your experience with this marketplace, your companies had to be aware that these problems were coming. Yet, rather than take the time and dedicate the resources to addressing them, your companies chose to push ahead with a liability shift that, not coincidentally, benefitted the financial institutions that issue your cards at the expense of local merchants.

In-store terminal certification backlogs caused many delays and by the time some allowances were made for self-certifications, the damage was already done in terms of increased chargebacks and added stresses

on already limited programming resources. We have also witnessed quality control issues with certification and testing as witnessed by the fact that many EMV compliant merchants have reported your processes have failed to protect them from issuer-initiated chargebacks. According to news reports, the certification process—established by the networks—took much longer than anyone expected with the in-store EMV migration. As a result, because EMV transactions could not be processed on non-certified equipment, many merchants were left with very expensive and virtually useless EMV hardware investments and a deadline they simply could not meet.

Approximately two-thirds of gas retail sites are small businesses, and many of them are facing a second, more complex phase of EMV implementation before they have successfully implemented their in-store migration. Not surprisingly, we are already seeing troubling implementation issues with respect to the fuel pump EMV transition. Delays in the specifications necessary to code fuel pump EMV have compressed the timeline for all parties in the chain to reach full compliance. Furthermore, the same developers, programmers and technicians who are now responsible for implementing, managing and trouble-shooting in-store EMV systems will have limited time and resources to facilitate the fuel transition in a timely manner.

Some of the specifications for programming fuel pumps for EMV are not currently available and fuel retailers likely will not have all the necessary specifications until next year. That does not leave enough time for many of the businesses in this sector to get the necessary programming work done to be ready by the current deadline – particularly when the industry is divided into thousands of small businesses and all of them are forced to go to market to get the experts they need to help with the transition at the same time.

Further, there are additional layers of regulatory and practical complexity to consider with respect to fuel pumps. When merchants have to break concrete to install new pumps or upgrade communications systems with respect to existing pumps, Environmental Protection Agency requirements and inspections are automatically triggered. Upgrades of communications systems used to send and receive card and transaction data to and from fuel pumps will be necessary for most fuel retailers to meet EMV standards. This can add delays to the process and increase the time when a location cannot serve customers. In instances where pumps are replaced, retailers may also run afoul of grandfathering rules for underground storage tanks—tank inspections and replacements are very costly. These are major construction efforts which are expensive and the disruptions result in lost sales. Those processes will add a significant amount of time, expense, and burden to an already-complicated EMV transition and will likely cause further bottlenecks and delays. For some businesses, particularly small businesses, these expenses may not be economically feasible given the volume of their fuel sales.

Also complicating the fuel pump EMV transition is the lack of consensus on how to handle EMV for commercial fleet cards. Retailers are still experiencing problems with acceptance of chip-enabled fleet cards inside stores, and the lack of clear specifications and card- and brand-specific challenges render a solution unlikely in the near term. In fact, one major fleet card program has indicated it is targeting 2018 for completing EMV chip card issuance and 2020 for completing point-of-sale EMV capability. Without a clear or timely path forward toward full EMV implementation, magstripe technology will be the natural fallback option for these fleet cards (which, incidentally, are most likely to be used at fuel locations).

The expense of the fuel pump transition is prohibitively high for many retailers, and especially so for small businesses and franchisees. The cost of new pumps—each with layers of complex proprietary technologies for dispensing fuel, payment acceptance, communications with in-store systems, etc.—can easily be more than \$10,000 per pump according to testimony from a small business owner before the House Small Business Committee last year. That can mean equipment costs of \$50,000 or more per store, even for small stores. Even if old pumps are retrofitted, the small business testimony indicated that costs of EMV acceptance equipment ranged from \$4,000 to \$9,000. Any of these options is far higher than the cost of in-store EMV hardware. And, purchasing the hardware is just the beginning. Merchants report employing qualified consultants to shepherd their in-store EMV processes for \$600-650 per hour. Overall, merchants estimate that the cost of implementing fuel pump EMV will be at least 6 to 8 times greater than the in-store roll-out.

In an industry where average per-store profits per year is under \$50,000, the total fuel pump EMV price tag is prohibitively expensive for small merchants, especially for those who have already invested thousands of dollars in in-store EMV compliance. Compounding the financial burden for small merchants is the liability shift already in place for in-store EMV transactions under which chargebacks have far exceeded expectations. And for larger retailers with many stores and multiple pumps at each location, the expense is staggering.

Your companies' recent announcements regarding changes to your EMV implementation approaches signal that you too have recognized the existing problems and agree that something needs to be done to mitigate them. Both of your companies have taken steps to simplify testing and certification processes in an effort to alleviate some undue burden. Further, your companies have announced you will make additional resources available to stakeholders to help facilitate and speed up the transition, and you are taking steps to curtail counterfeit card chargebacks for merchants who have not fully completed the EMV migration. These steps mark an acknowledgment by you that the EMV roll-out, as initially conceived, was overly onerous and costly for merchants, and that marketplace realities cannot be ignored.

Given this, it is clear that October 2017 is an unrealistic date for EMV deployment at fuel pumps. In fact, sticking to that date would be nothing more than a calculated move to once again insulate banks from fraud liability at the expense of merchants. That is, of course, what the EMV transition at in-store points of sales has been to date.

If you intend to stick to that unrealistic deadline at fuel pumps, despite the clear problems that still exist with the first phase of EMV in the U.S., we hope you anticipate making *meaningful* adjustments and allowances for petroleum retailers who, at least in some respects, are facing an even more burdensome transition than merchants with only in-store EMV terminals. For instance, although Visa has now blocked counterfeit fraud chargebacks for merchants on transactions under \$25, such a concession would have limited utility in the fuel pump space because most transactions are well over that amount. You should make similar allowances for fuel transactions but apply them to all transactions under \$100. You should also ensure that there are systems in place to block improper chargebacks – which have been a regular occurrence during the past year – before implementing any liability shift at fuel pumps. And, you should make it clear that merchants can require the entry of a PIN in order to protect themselves from chargebacks.

Saddling merchants with the costs of an EMV product that was not designed to allow merchants to protect themselves through PIN or other multi-factor authentication does not make sense. The large number of chargebacks taking place today can largely be traced to your companies' perpetuation of signature authentication which, in fact, is not an effective means of authenticating a cardholder or transaction. Not only that but, based on our members' accounts, card issuers are mischaracterizing the types of fraud occurring to ensure that merchants (rather than banks) must shoulder as much of those losses as possible. It simply cannot be that merchants continue to be hamstrung in their efforts to prevent fraud while simultaneously holding the financial responsibility for the fraud they are not allowed to prevent.

Merchants are already frustrated with the numerous problems associated with the 2015 in-store EMV rollout and, somewhat inexplicably, we are now moving forward with an ever more onerous and complex phase with fuel pumps. We still have concerns about inadequate security with signature-only EMV transactions and delays in necessary specifications for routing debit transactions in a manner that is consistent with current law—concerns that are only heightened with respect to EMV at fuel pumps. Additionally, the aforementioned challenges specific to fuel pumps will create significant barriers to adoption of EMV at motor fuel outlets.

We would appreciate hearing how you and your issuers plan to account for and address these issues—both those that have arisen during the in-store EMV migration process and those that are unique to the ongoing fuel pump transition. Liability should not be shifted on fuel dispenser sales until all networks, acquirers, processors, hardware and software providers, and pump manufacturers have solutions that are in place and allow fuel merchants the time needed to implement EMV acceptance. We look forward to hearing from you.

Sincerely,



Mark Horwedel
CEO
Merchant Advisory Group