
STATUTORY INSTRUMENTS

1990 No. 2159

The Credit Cards (Price Discrimination) Order 1990

Interpretation

2.—(1) In this Order—

“credit card” means a payment card the holder of which is permitted under his contract with the issuer of the card to discharge less than the whole of any outstanding balance on his payment card account on or before the expiry of a specified period (subject to any contractual requirements with respect to minimum or fixed amounts of payment), other than:

- (a) a payment card issued with respect to the purchase of the goods, services, accommodation or facilities of only one supplier or of suppliers who are members of a single group of interconnected bodies corporate⁽¹⁾ or who trade under a common name,
- (b) a payment card with respect to which the payment card account is a current account, or
- (c) a trading check;

“credit card transaction” means a transaction under which goods, services, accommodation or facilities are supplied on the production in the United Kingdom of:

- (a) a credit card, or
- (b) any other type of payment card which:
 - (i) bears a trade mark or service mark which is also borne by a credit card,
 - (ii) does not bear a trade mark or service mark registered in a Member State of the European Economic Community and borne by (and only by) a type of payment card which is not a credit card, and
 - (iii) is not readily distinguishable from a credit card;

“payment card” means a card, the production of which (whether or not any other action is required) enables the person to whom it is issued (“the holder”) to discharge his obligation to a supplier in respect of payment for the acquisition of goods, services, accommodation or facilities, the supplier being reimbursed by a third party (whether or not the third party is the issuer of the card and whether or not a fee or charge is imposed for such reimbursement);

“price” means the aggregate of the sums required to be paid by a purchaser for or otherwise in respect of the supply of the goods, services, accommodation or facilities in question.

(2) For the purposes of the definition of “credit card transaction”:

- (a) “production in the United Kingdom” includes the identification of a payment card described in paragraph (a) or (b) of the definition in a telephone order or mail order received at a place of business in the United Kingdom, and
- (b) without prejudice to it otherwise being readily distinguishable, a payment card shall be deemed to be readily distinguishable from a credit card when:

⁽¹⁾ See section 137(5) of the Fair Trading Act 1973 for the definition of “group of interconnected bodies corporate”.

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- (i) either it bears a trade mark, service mark or other distinguishing feature which is borne only by the payment card or it does not bear such a feature which is borne only by the credit card,
- (ii) the supplier in question has received in writing a clear description of the distinguishing feature and notice that such a payment card is not a credit card, and
- (iii) with the facilities and equipment which he possesses, the supplier is able quickly and easily to ascertain by reference to the distinguishing feature or its absence (if shown to the supplier or identified to him in a telephone order or mail order) whether or not the payment card is a credit card.

(3) For the purposes of this Order, a person shall not be treated as carrying out an agreement by reason only that he refrains from doing something the doing of which is the subject of a prohibition or restriction imposed by the agreement.

(4) In the case of a person falling within paragraph (a), (b) or (c) of section 90(3) of the Fair Trading Act 1973, this Order shall extend to his acts and omissions outside the United Kingdom.