

7 Things You Need to Know About ...

Surcharging

A quick guide to understanding surcharging from the  Association of Payment Professionals
Leading the community to safeguard payments

01 | WHAT IS IT?

In simple terms, surcharging refers to the practice of adding an extra fee or charge on top of the regular price of a product or service. This additional fee is often imposed by businesses to cover the cost of certain payment methods, such as credit card transactions. Surcharging allows the business to pass on the cost of processing these payments to the customers who choose to use them, rather than absorbing the cost themselves.

The legality and acceptance of surcharging can vary depending on local laws and regulations, as well as the payment processor's policies. Some countries or regions might prohibit surcharging, while others may have restrictions on the maximum surcharge amount that can be applied.



A common example.

Let's say you visit a small retail store to make a purchase, and you decide to pay using your credit card. The store may have a policy of adding a small surcharge, such as 2% of the purchase amount, to cover the cost of processing credit card payments.

So, if your total purchase amount is \$100, the surcharge of 2% would be an additional \$2. This means you'll have to pay \$102 in total when using your credit card, whereas if you were to pay with cash, you'd pay the regular \$100 without the surcharge.

02 | HOW DOES IT WORK?

In general, within the U.S., surcharging requires a merchant to:

- Provide its acquirer with 30 days advance notification from the date it intends to impose a surcharge on transactions
- Comply with unique state limitations and prohibitions
- Adhere to Payment Network Rules
- Restrict usage to credit products as surcharging is prohibited on debit products
- Limit the surcharge amount to the cost of acceptance or the Visa Surcharging cap (3%), whichever is lower

Transparency is essential when applying surcharges. This additional cost must be disclosed to the consumer **both** at the point of entry to the merchant's premises as well as at the point of sale **in advance** of the transaction taking place.



Note: Merchants may wish to seek legal counsel for guidance on compliance with Payment Network Rules, Federal, and State laws for any add-on charges.

Surcharging is commonly confused with other programs, such as Convenience Fees, Service Fees, Cash Discounting, and Dual Pricing.

03 | WHO IS DOING IT?

Surcharging is implemented by many types of merchants or businesses, particularly those that accept credit card payments or other payment methods that come with processing fees.

Some examples of merchants that may impose surcharges include:

Retail stores: Small or independent retailers sometimes implement surcharges to offset the cost of credit card processing fees when customers use cards for payment.



Restaurants: Some restaurants may apply surcharges on certain payment methods, like credit cards, to cover the fees incurred during electronic transactions.



Utility companies: In some regions, utility providers may impose surcharges on customers who pay their bills using credit cards or other non-standard payment methods.



Online merchants: E-commerce businesses may surcharge customers who choose to pay with certain payment methods that have higher transaction costs.



Ticketing agencies: When purchasing tickets for events or travel, ticketing agencies might add surcharges to cover the cost of payment processing.



Nonprofits: When making a donation to a nonprofit, the organization may ask the donor to pay a surcharge to cover the cost of processing the payment processing costs associated with the gift or transaction.



Note: While the payment networks maintain specific rules for surcharging, it is important to be aware that there are various state by state bans and restrictions that will supersede payment network rules. These can vary by merchant type.

04 | WHY IS IT SIGNIFICANT?

Recently, there has been a lot of attention on the practice of surcharging, and more specifically, the misapplication of surcharging. The practice of non-compliant surcharging poses potential financial implications to the merchant, the ISO, and the acquirer as it can result in violations and associated fee assessments issued by the Payment Networks. If not resolved, these violations can lead to the termination of merchants identified for non-compliant surcharging.

Understanding the rules related to surcharging is essential for a merchant to comply with legal requirements, maintain customer trust, enhance the overall customer experience, and manage financial aspects effectively. It also helps the merchant navigate the complexities of payment processing and potential risks associated with non-compliance.

05 | WHAT IS THE DOWNSIDE?

The implementation of a compliant surcharge program is very complex. While surcharging can offer certain benefits to businesses, it also comes with several downsides and potential risks.

Some important risks for a merchant to consider when considering or evaluating a surcharge program include:

- Customer dissatisfaction and reduced customer loyalty.
- Complexity in pricing structures increases the potential for confusion and frustration for both customers and merchants.
- Negative impact on the business's reputation if not implemented with clear communication and transparency.
- Potential shift towards cheaper payment methods that may create additional risks and inefficiencies for a merchant.
- Compliance with varying regulations and payment network rules can be complex. Keeping up with changing rules and laws can be time-consuming and costly.
- Risk of legal issues and fines for non-compliance.



Note: Violations and associated penalties issued by the payment networks will follow a merchant even after the merchant changes acquirers or payment processor.

While surcharging can be a way for businesses to manage payment processing costs, it requires careful consideration of its potential impact on customer satisfaction, loyalty, and reputation. Striking the right balance between cost recovery and customer experience is essential to make surcharging a viable option for a business.

CONFUSING TERMS

When implemented incorrectly, a surcharge fee can be confused with other types of fees and can also be construed as the noncompliant deployment of a surcharge program.

CONVENIENCE FEE

- An extra charge for providing customers with the convenience of using certain payment methods or services outside of the merchant's customary payment channel.
- It is not tied to the payment processing cost but rather to the added convenience or benefit the customer receives.
- The fee must be a flat or fixed amount regardless of the value of the payment due and may not be charged in addition to a surcharge.
- Convenience fees may not be collected separately and cannot be charged on a recurring or installment transaction.

SERVICE FEE

- A charge added for specific services or benefits provided to customers.
- This fee is separate from the actual price of the goods or services being offered and may vary depending on the nature of the service provided.
- On the Visa payment network, this fee may only be applied to specific Merchant Category Codes (MCC). The fee must be a reasonable reflection of the costs directly associated with completing the transaction, and where possible, capped.
- A service fee may only be assessed on the final transaction amount after all discounts and rebates have been applied during the transaction.

DUAL PRICING / CASH DISCOUNTING

- A practice where a discount is offered to customers for using cash.
- This requires a choice between the cash price and the standard price at the point of sale.
- The standard price is set higher to include the potential credit card processing fees. Customers paying with cash receive a discount because they are not incurring these additional costs.
- Cash discounting incentivizes customers to choose payment methods that save the business money on transaction fees.
- Discounting was entered into United States federal law under 15 USC§1666f.

06 | WHERE IS IT GOING?

Predicting the future of surcharging is challenging as it can be influenced by various factors, including changes in laws, consumer behavior, and payment industry trends. The expectation is that surcharging will continue to grow under the current framework. There is no indication that surcharging that is in place in the market today will ease or go away.

LEGAL LANDSCAPE

The future of surcharging will heavily depend on the legal and regulatory environment in different countries and regions. Some regions might continue to ban or restrict surcharging, while others may implement new regulations to govern its usage. This could lead to a patchwork of rules and varying acceptance of surcharging globally.

CONSUMER ACCEPTANCE

The level of consumer acceptance and tolerance for surcharging will play a role in its future. If consumers continue to express dissatisfaction with surcharges, businesses may be hesitant to implement them to avoid negative impacts on their customer base and brand reputation.

As payment technologies and regulations evolve, businesses will need to adapt their practices to remain compliant and customer-centric. It's essential for businesses to monitor developments in the payment landscape and stay informed about relevant regulations to make informed decisions about surcharging or alternative pricing strategies.



Note: It is important for Acquirers, ISOs, and software providers to watch for evolving payment network rules and changing laws bans, and restrictions. Acquirers should be sharing any payment network rule changes with ISOs, software providers, and merchants to help mitigate the risk of potential non-compliance violations and fee assessments.

ALTERNATIVE PAYMENT METHODS

As the payment industry continues to evolve, new and innovative payment methods may emerge that have different fee structures. Businesses may shift towards encouraging the use of more cost-effective payment methods, like digital wallets or contactless payments, rather than relying on traditional credit card surcharges.

PAYMENT PROCESSOR POLICIES

The policies of payment processors and card networks can influence the adoption of surcharging. If these entities change their guidelines or fee structures, it may impact how businesses approach surcharging or whether they choose to implement it at all.

07 | WHAT ARE THE IMPLICATIONS FOR PAYMENTS?

Left unchecked, all stakeholders may face increased non-compliance fee assessments, potential litigation filings and decreased merchant and consumer acceptance. As a result, training is paramount. It is imperative that all stakeholders understand the current rules and framework to implement and maintain a compliant surcharging program. This includes developing and employing training targeted to merchants **and** their staff.

In addition, there is an increased reliance on the use of third and fourth parties to help facilitate surcharge programs. Generally, these entities do not hold the same financial liability for the execution of the program as merchants, ISOs, and acquirers. As a result, proper vetting of these entities is imperative to ensure the surcharging practices of the solution provider are compliant with the current payment network rules and applicable laws and regulations at state, federal and even international levels.

BONUS | FAQ's

Why do I need to put up a sign about Surcharging?

The Payment Network rules require that signage be posted at both the point of entry for the merchant's premises and the point of sale.

There are very prescriptive rules regarding the signage that a merchant must follow to be compliant.

The language on the signage cannot disparage the Payment Networks or imply that the fee is imposed by or benefits anyone other than the merchant.

Visa offers sample surcharge disclosure signage in the proper typeface and font size. The surcharge disclosure signage is publicly available on [visa.com](https://usa.visa.com/content/dam/VCOM/download/merchants/sample-surcharge-disclosure-signage.pdf) (<https://usa.visa.com/content/dam/VCOM/download/merchants/sample-surcharge-disclosure-signage.pdf>).

May I offer a cash discount by charging a Non-Cash Adjustment (NCA) for use of a payment card?

No. According to payment network rules, a surcharge means any fee charged by the merchant for use of a payment card, which means by using a non-cash adjustment or NCA, the practice would fall under the surcharging rules outlined in the MasterCard Rules, Visa Core Rules, and Discover Acquirer Regulations.

Why is Cash Discounting Allowed?

The Cash Discounting Act was established under 15 USC § 1666f which is the United States federal law that permits merchants to offer a discount for the use of cash AKA "Cash Discounting".

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About APP

The Association of Payment Professionals (APP) is a volunteer-driven, nonprofit, membership organization committed to safeguarding the payments ecosystem through education, collaboration, and leadership.

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