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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM - Sesión III: Competition  
and Payment Card Interchange Fees**

-- Contribution from Costa Rica --

20-22 September 2021

The attached document from Costa Rica is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 20-22 September 2021, via a virtual Zoom meeting.

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## *Session III: Competition and card payment systems*

### *Payment cards and systems in Costa Rica*

#### *- Contribution from Costa Rica<sup>1</sup> -*

#### **1. Payment cards**

1. Based on a recent study conducted by the Ministry of Economy, Industry and Commerce (October 2020), a total of 32 credit card issuers exist in Costa Rica. These issuers offer 429 different products based on currency, credit limit, additional benefits, among others. Out of these, a total of 28 financial entities (87.5%) are also debit card issuers. Most credit and debit cards in the market are issued under the most recognized international brands: Visa and MasterCard. On the other hand, a total of six companies operate as acquirers and card issuers at the same time. However, the three most relevant of these economic agents have a combined market share of 90%. In line with this information, it is worth noting that the American Express brand has only one acquirer and issuer in the country.

2. In the country there are a total of 191.7 thousand devices to process transactions at the point of sale [POS], a number that represents an increase of 16.6 thousand devices in comparison to 2020, which was driven by the inclusion of m-POS technology, which allows to process contactless card payments using a mobile application in a mobile device. Therefore, it can be concluded that there are 37,500 POS systems per million inhabitants.

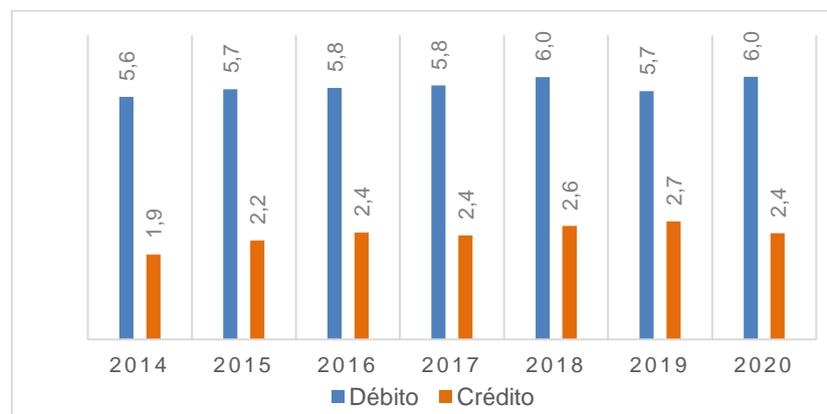
3. According to studies conducted by the *Banco Central de Costa Rica* [BCCR, Costa Rican Central Bank, if translated], by the end of 2020, the number of payment cards in the country was 8.4 million, of which 71.2% (6.0 million) were debit cards, while the remaining 28.8% (2.4 million) were credit cards. At a national level, there are 2.5 debit cards for every credit card. This is a trend that repeats itself in most of the Latin American markets. Regarding the payment cards to population ratio, it can be concluded that there are 1,200 debit cards for every one thousand inhabitants and 500 credit cards for every one thousand inhabitants.

4. When compared to 2019, it is evident that there was a significant decrease in the number of credit cards in the market. This decrease was driven by a reform that was enacted and that established caps on the interest rates of financial and commercial transactions and microcredits. As a result, issuers of credit cards closed credit accounts that had been granted through cards and thus, the number of credit cards in the market at the closing of 2020 was 272 thousand less than in 2019. However, this decrease was offset by an increase in the number of debit cards, which led to the total number of payment cards in the market remaining practically unchanged.

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<sup>1</sup> Comisión para Promover la Competencia (Commission for the Promotion of Competition, COPROCOM).

**Figure 1. Evolution of the number of payment cards in the market 2014-2020**  
-In millions-



Source: Entidades Financieras y emisores de tarjetas.

5. In 2020, the use of payment cards decreased by 23% in contrast with 2019, as a total of 397.7 million payments were processed (68.1% with debit cards and 31.9% with credit cards%). Given the number of debit cards issued (6.0 million), each debit card was used to process an average of 45 payments during 2020, while each of the 2.4 million credit cards was used to process an average of 52 payments.

6. Just as in 2019, during 2020 the value of payments processed with credit cards exceeded the value of those processed with debit cards. On average, the value of each purchase processed with a credit card was 2.2 greater than the value of those processed with debit cards. This is evidence of the use and preference of cardholders in relation to payment schemes such as zero interest installments, points, cash-back, among other benefits that credit card issuers offer to their clients.

## 2. Other means of payment

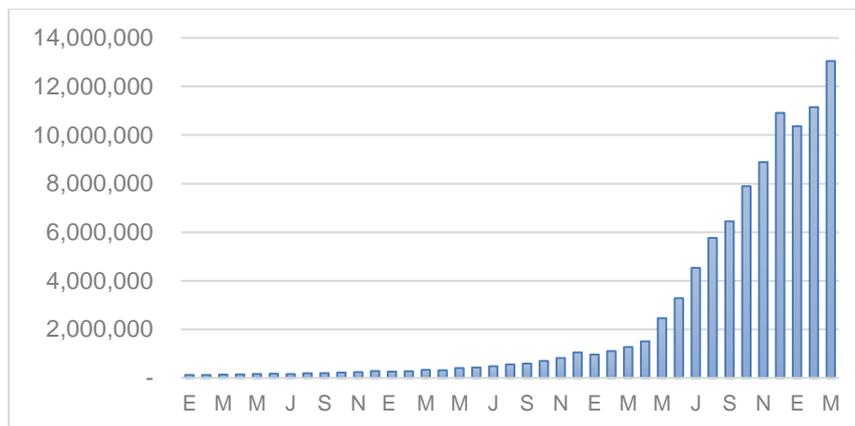
7. Regarding automated teller machines [ATMs], at a national level, the year 2020 saw a decrease of 4% in their numbers in relation to the previous year. It is worth noting that the main use given to these machines by consumers<sup>2</sup> is the withdrawal of cash, with 114 million transactions of this nature being logged in 2020 (24% less than in 2019). This resulted in approximately 22 cash withdrawals per inhabitant, which evidences a reduction of eight transactions per inhabitant in comparison to 2019. The year 2020 is the second consecutive year in which the quantity and value of operations processed by automated teller machines decreases, as cardholders continue to use their cards to process payments and not only to withdraw cash.

8. In recent years, the country also saw the launch and surge of *SINPE Móvil*, an electronic wallet promoted by the BCCR that allows users to transfer money to an account linked to a mobile phone number using any e-banking channel (SMS banking, mobile web banking, app banking, online banking or ATMs) Close to 2.2 million persons are enrolled

<sup>2</sup>The withdrawal of cash represents 96.8% of monetary transactions processed by these devices.

to this solution and 1.4 million use it on a regular basis.<sup>3</sup> Most likely driven by the COVID-19 pandemic, the transactions processed through *SINPE Móvil* have grown significantly and are expected to close at 230 million operations in 2021, which would represent an increase of 318% in relation to 2020, a year during which 55 million transfers were processed and a total of \$1,600 million were transacted.

**Figure 1. Number of monthly transfers processed using SINPE Móvil 2018-2020**



Source: Banco Central de Costa Rica

9. The rise of *SINPE Móvil* is also driven, in part, by the fact that these transactions have no fees and, therefore, a lot of businesses, especially smaller ones and independent contractors, prefer them over debit card payments.

### 3. Actions taken by the COPROCOM in relation to payment cards

10. From 2013 to date, the COPROCOM has assessed over a dozen economic concentration operations involving financial entities that are also credit card issuers. Nevertheless, with the exception of three portfolio assignments specifically related to credit card operations, all of which were approved, the only relevant transactions for the purposes of this contribution was the acquisition in 2016 by Scotiabank of the personal and commercial banking business of Citibank in Costa Rica, which included Citi Cards. Such a transaction was approved without restraints, as it was not construed to pose any adverse effects in the market.<sup>4</sup>

11. In relation to the investigation of anticompetitive practices in the payment cards market, a proceeding that was conducted to determine the existence of relative monopolistic practices, specifically exclusive treatment in the service of acquisition of credit cards by Credomatic Costa Rica, which ended in 2013, is worth noting. The investigation that was conducted concluded that Credomatic Costa Rica required that affiliate merchants meet and exceed certain sales thresholds in order to gain access to lower acquisition fees. If the merchants did not meet these thresholds, then they would have to pay higher fees.

<sup>3</sup> The growth that was observed has been driven by the growing access to and use of banking services (called bankarization) in the country, as 82% of the population that is 18 or older has at least one bank account in the financial banking system.

<sup>4</sup> See vote No. 01-2016 in: <https://www.coprocom.go.cr/resoluciones/2016/OP-001-16%20CRITERIO%20SUGEF%20SOBRE%20CONCENTRACION%20CITI-SCOTIABANK.pdf>.

Throughout this proceeding, it was determined that the sales volumes requested to merchants were of such a magnitude that they were leading to the closing down of competitors, that is, it was an exclusionary strategy. Furthermore, it was concluded that the sales volumes that were being requested to the different merchants were not consistent with the acquisition fees that the company was charging them, as they varied from merchant to merchant, which denoted an intent to request amounts that would lead to an exclusive treatment for a single acquirer and to the closing of the market for its competitors.

12. In the aforementioned proceeding, the relevant market was defined as the affiliation of merchants to liquidate funds received from sales processed using credit cards in exchange for a fee. It was determined that the company under investigation had significant power in the relevant market, as it was the economic agent with the largest market share and the only company processing cards from the brands MasterCard, JCB and American Express. Hence, at that time it was only facing competition in the acquisition of Visa branded cards. After starting the investigation, other acquirers were able to acquire MasterCard branded cards, although the biggest competitor of the company was forced to use its own resources and not those of third parties to do so, which allowed the company under investigation more time to maintain its dominant position in the market.

13. On the other hand, the COPROCOM has been especially active in advocating in favor of more competition in the payment card industry. The relatively high interest rates of credit cards and acquirer and interchange fees have led, in the past 10 years, to the enactment of laws to regulate them, as the payment cards market is not regulated by the financial regulatory authority that already exists in the country.

14. In general, bills that have been presented sought to establish caps to interest rates charged by credit cards, acquisition fees (those paid by merchants in exchange of the processing of the purchases made by consumers) and interchange fees (the fee that the issuer of the card charges for each purchase processed). Until 2019, the COPROCOM repeatedly published statements against any regulation, especially those that also promoted the establishment of percentages without the required technical analysis.<sup>5</sup>

15. However, in 2019, by means of opinion OP-16-19, the COPROCOM **modified its criterion solely in relation to interchange fees**, after determining that this rate had not been modified in 25 years, despite the entry into market during that period of over 20 credit card issuers, some of them important transnational companies, and after the entry into market of four new acquisition service providers. In addition, it also considered that the same interchange fee was being charged for expenses paid with credit and with debit cards, despite there being a clear difference in terms of risk. On the other hand, acquisition fees had in fact shown a significant decrease as a result of competition in the market.

16. Consequently, through the aforementioned opinion<sup>6</sup>, and after analyzing the solutions that other countries had adopted in relation to interchange fees, the COPROCOM determined that despite the fact that effective competition in the market is a more efficient policy to protect consumers, it has to be acknowledged that some markets have specific characteristics that hinder the development of effective competition and that, therefore, price or tariff regulation may be necessary. Hence, it recommended that the State intervene, either as a supervisor or a regulator of interchange fees to guarantee their transparent and

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<sup>5</sup> See opinions OP-19-12, OP-15-13, OP-11-17, OP-07-19, available on the website of the competent authority.

<sup>6</sup> Available at: <https://www.coprocom.go.cr/resoluciones/2019/OP-16-2019%20SOBRE%20REGULACION%20DE%20TASAS%20INTERBANCARIAS%20EN%20SERVICIO%20DE%20ADQUIRENCIA.pdf>.

objective operation. Likewise, it also listed a series of key elements that such an intervention should consider.

#### 4. Usury Act

17. For all relevant purposes, Act No. 9859, also known as the Usury Act, which came into force in the middle of the year 2020, capped loan and credit card interest rates, and established that the violation of such caps be construed as a crime of usury. Thus, Act No. 9859 sets a cap for the annual interest rate that individuals or legal entities financing a third party may charge for any financial and commercial transaction or a microcredit.

18. This Act also establishes that such caps shall be computed and established by the BCCR and that such an entity shall publish them in the first week of the months of January and July of each year, in the Official Newspaper and in its website, and that these shall apply to all agreements, businesses or transactions made in the semester following its publication.<sup>7</sup>

19. In compliance with the Act, the BCCR prepared the Technical study for the first capping of fees for the payment card system,<sup>8</sup> which set out the following rates:

- A maximum acquisition fee for all transaction types and amounts, types of POS devices, and commercial activities, equivalent to 2.50% of the payment amount, except for payment transactions in a) service stations; b) charitable organizations; c) public transportation; and d) tollbooths, which shall be subject to a maximum acquisition fee of 1.50%. This fee shall include all charges agreed under the commercial relationship between the merchant and the acquirer.
- A maximum interchange fee (including the acquirer fee) of 2.00% for all transaction types and operations, payment device types, and commercial activities, except for those payment transactions listed in the above paragraph, which shall be subject to a maximum interchange fee of 1.00%.

20. As was mentioned earlier, a first consequence of the issuance of the Usury Act was the decrease in the number of cards in the market, as credit accounts, presumably of those higher-risk clients, were closed. In the future, it will be worthwhile to review the study on the impact of the provisions of Act No. 9859, which the General Superintendence of Financial Entities shall be under the obligation of preparing and furnishing each year to the Legislative Assembly. The COPROCOM shall monitor these studies in order to understand the changes that the payment cards market is experiencing.

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<sup>7</sup>In January 2021, the BCCR capped the interest rates for credits in general at 35.5% and for microcredits (those under €675,000 colones, excluding payments made with credit cards) at 50.2%.

<sup>8</sup>Available at: [https://www.bccr.fi.cr/marco-legal/DocAcuerdosJuntaDirectiva/BCCR\\_5949-2020\\_Art6Num4.pdf](https://www.bccr.fi.cr/marco-legal/DocAcuerdosJuntaDirectiva/BCCR_5949-2020_Art6Num4.pdf)

## 5. Conclusion

21. In the last years, Costa Rica has experienced significant shifts in the means of payment used, especially in reference to electronic transfers of money from accounts linked to mobile phones. For its part, the domestic credit card market has contracted significantly as a result of the entry into force of a law that caps the interest rates that can be charged for these transactions. The impact of this law shall be duly analyzed by the COPROCOM in order to determine its effect on the wellbeing of users.

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