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FleetCor: Risk Based Pricing Raises Additional Disclosure Issues and Further Undermines the Fuel Card Value Proposition

Company Update

In our March 20th article, we discussed the Minimum Program Administration Fee (MPAF)—a charge of up to 10 cents per gallon on all transactions when fuel prices are below $3.25. In this article, we take a close look at risk based pricing pursuant to which FleetCor imposes fees on customers based on a variety of factors including the specific industry customers operate in, baseline credit score and/or change in credit score, and payment history.

While the specific nomenclature for risk based pricing varies by card, in this article we focus on Level 2 Pricing for Fuelman Cards, High Credit Risk Account fees associated with Universal MasterCard products, and the Universal Advantage FleetCard whose terms and conditions allow FleetCor to impose both Level 2 Pricing and High Credit Risk Account Fees.

On April 5th, we asked the company to confirm which cards are subject to Level 2 or High-Risk Pricing. A representative from ICR, a PR company representing FleetCor, stated: "As we said, we use risk-based pricing in various forms in most of our US businesses. This allows us to open the program to more customers (e.g. higher approval rates). The structure of the pricing for risk varies by portfolio. Level 2 is limited typically to our Fuelman or proprietary programs. High risk transaction fees are the structure we use for most of our MasterCard portfolios."

Previously, on March 9th, an ICR representative stated that risk based pricing fees "represent roughly 1.5% of FLT's revenue." Regarding this revenue figure, stakeholders should note that FleetCor increased the maximum Level 2 Pricing charge from 10 cents to 20 cents at some point after July 2016. Had the increase been in effect for the full year, the revenue figure likely would have been higher.

Analysis of Level 2 Pricing

Revised Level 2 pricing disclosure increased maximum allowable fees. *The Capitol Forum* recently obtained a copy of a Fuelman billing statement from February 2017 that included different Level 2 Pricing disclosure language than we had previously observed in billing statements from July 2016. The most notable change in the Level Pricing 2 Pricing disclosure language is the fact that FleetCor doubled the maximum allowable incremental charge from 10 cents per gallon to 20 cents per gallon.

Notice of Level 2 pricing increase. It is unclear when FleetCor revised the Level 2 disclosure language or whether the company pushed out any affirmative notice beyond simply changing the disclosure language in the terms and conditions contained in the billing invoices. If no additional notice was provided, customers would have had to either detect the change in the disclosure language or audit the line item transaction prices on their fleet management reports by first reconciling the FleetCor transactions against gas pump receipts and then calculating the per gallon price difference.

In the same request for comment referenced above on April 5, we also asked the following questions:

- When did the max incremental charge for Level 2 increase from 10 to 20 cents?

- Was any additional notice provided to customers regarding the increase in Level 2 Pricing beyond the change of language in the terms and conditions?
- Was there any pricing increase for High Credit Risk Accounts as well?

With respect to the question regarding High Credit Risk Accounts, we were interested in determining whether FleetCor increased risk based pricing across the board or only with respect to Level 2 Pricing, which is imposed at the transaction level and is therefore more difficult to detect than the itemized High Credit Risk Fees.

On Thursday April 6th, an ICR representative responded to our question regarding which fuel card programs are subject to Level 2 or High-Risk Pricing, but did not address our questions regarding pricing changes and disclosure. On the same day, we sent a follow-up email to confirm that responses to our other questions were still pending. No additional response was provided.

Scope of Level 2 Pricing

Trucking and transportation customers. FleetCor's terms and conditions do not require any condition precedent for imposing Level 2 Pricing on trucking and transportation customers. "Fuelman may deem the Client to be High Credit Risk Account and reserves the right to invoke Level 2 Pricing in the event that … the Client operates in the trucking or transportation industry."

In other words, FleetCor reserves the right to impose risk based pricing on trucking and transportation companies simply by virtue of the industry in which they operate. In our view, this raises several questions:

- What percentage of FleetCor's customer base falls into the category of trucking and transportation companies?
- Of FleetCor's trucking and transportation customers, what percentage are currently subject to Level 2 Pricing?
- The disclosure language theoretically allows FleetCor to impose Level 2 Pricing on all its trucking and transportation customers. Does this mean that FleetCor can impose Level 2 Pricing on trucking and transportation companies with solid credit histories?
- How does FleetCor determine the amount of the incremental charge (i.e. 5 cents vs. 20 cents)? Is the determination based entirely on a risk based formula or algorithm? If not, do revenue targets/forecasts factor into the equation?
- Is any additional notice or disclosure provided to trucking and transportation customers that are subject to Level 2 Pricing from the outset of the fuel card relationship?

Customers that experience a drop in credit score. FleetCor may also impose Level 2 Pricing from the outset for those customers with commercial credit scores below 520 and individual credit scores below 660. It is unclear how many of Fleetcor's current customers had credit scores below the minimum threshold from the outset, therefore making them potentially subject to Level 2 Pricing.

Moreover, it is equally unclear how and when Level 2 Pricing is actually implemented. In addition, FleetCor's ability to impose Level 2 Pricing based on a change in credit score without notice raises the risk that Level 2 Pricing could be imposed based on inaccurate credit reporting information—we recently reported on complaints and lawsuits filed against Dun & Bradstreet regarding inadequate record keeping and erroneous information on credit reports.

In the event that FleetCor imposes Level 2 Pricing based on inaccurate credit reporting information from Dun & Bradstreet or simply as the result of an internal error, the customer would have to: (1) identify that Level 2 Pricing had been imposed by comparing fuel receipts against the transaction prices contained on the Fleet Management Reports; (2) obtain confirmation from FleetCor that the Level 2 designation was based on a change in credit score; (3) obtain proof from Dun & Bradstreet regarding the error; and (4) provide FleetCor with documentation demonstrating that the credit report information was inaccurate. As a Better Business Bureau Complaint regarding the potential challenges associated with Level 2 Pricing based on changes in credit scores illustrates:

"Overcharged on statement for individual purchases. We receive billing statements bi-monthly from this fuel purchasing management company. On our most recent statement, we noticed that all transaction charges after 12/16/2015 were for a higher amount than as supported on the purchasing receipt. Upon inquiry with the vendor, we came to find out that they decided that we were a high credit risk based on a recent inquiry with Dunn and Bradstreet, and as such have decided to place a surcharge of $.10 per gallon on all purchases. We have been a customer in good standing, paying on time, in full, carrying no balances or interest charges for many years. No prior notice was given about this change in pricing structure. This is dirty business. I was told by a supervisor that they will review pricing and get back to me in three business days but that there will not likely be any billing adjustments made for prior transactions. I will also be filing a complaint with the Massachusetts attorney general's office. --- Additional Comments: I do not agree to pay for any charges higher than the pump price stated. [70023535 01/13/2016 BBB GA Atlanta- Wellfleet, MA]"

One thing that we have noticed regarding Level 2 Pricing complaints based on a change in credit score is that FleetCor does not appear to substantiate its determinations with any form of supporting documentation or other information evidencing the credit information obtained from Dun & Bradstreet. The combination of the lack of notice regarding the credit check and absence of supporting documentation shifts the burden on customers to constantly monitor whether they are paying incremental charges and potentially demonstrate that their credit scores do not fall below the Level 2 thresholds.

Late payment penalties. FleetCor may also impose Level 2 Pricing as a result of two or more late payments. As noted in our first article, numerous sources have indicated that customers frequently experience significant issues navigating the bill payment process resulting in the posting of payments past the due date and the imposition of late fees. "The company in my opinion, was designed so customers could easily be charged late fees which in turn caused salesperson to always lose customers," stated one former sales rep.

The former sales rep further explained: "The company systems were inefficient causing a domino effect in every department of the company. Customers would receive statements with errors and/or late fees and stop fueling. Salespersons would have to scramble to try and get invoices corrected to save accounts as forecasts/guesstimates had already been reported. It was always a never win for customers and salespersons."

High Risk Credit Account Pricing

With respect to other cards such as the Universal Premium FleetCard MasterCard, customers may be designated as "High Risk Credit Accounts," based on the substantially similar criteria as outlined above for Level 2 Pricing. The terms and conditions from a December 2016 customer invoice disclosed the following regarding High Credit Risk Accounts: "FleetCor may deem the Customer to be 'High Credit Risk Account' based on certain criteria as defined in the Cardholder Agreement, and reserves the right to change the Account's billing cycle payment terms (days-to-pay), and/or credit limit. In addition, FleetCor reserves the right to charge a transaction fee of up to five dollars

($5.00) per transaction or a High Credit Risk Fee of up to two percent (2%) of the Account's Credit Limit per billing cycle for High Credit Risk Accounts."

Unlike the Level 2 Pricing program, the fees associated with the High Risk Credit Account designation are actually disclosed as a line item on the final page on the Fleet Management Report, which is a separate document from the billing statement. However, high-risk accounts are subject to higher late fee charges and the loss of rebates/discounts.

Below are two complaints, the first is posted on the BBB.org FleetCor Technologies, LLC webpage and the second is from one our FOIA requests, regarding erroneous assessments of high credit risk fees based on an alleged drop in credit score.

3/21/17 Complaint (please note 3/21 is when the complaint was posted, not necessarily when the consumer submitted the complaint)**.** "Upon receiving my monthly statement I noticed a "High Risk Credit Fee" of $20, I called customer service number to ask why. The first call was little help but she stated that my credit dropped so they hit me with the fee. I proceeded to pull a credit report the very next day and saw 795 Fico to 809 Equifax. I called customer service back and this time the woman on the phone said my credit dropped in May 2016 so they began the fee. I explained to her that my credit was excellent and that they made a mistake, she said to continue paying my full bill and that they would credit me back 3 months worth of charges in 2-3 billing cycles. How is this fair? I continue to pay the $20 fee but I only get reimbursed for 3 months worth when it was clearly a mistake on their part and how many other people have they done this too? Poor business practices to charge a fee for something that never happened..."

3/20/17 Business response. "This letter is in response to the complaint we received from your office. In your complaint you expressed that you were told that you were accessed the high risk fee due to a drop in your credit score. We would like to apologize to you and your company for unfairly being charged this fee. Your account was reviewed and has been credited for all of the times that you were charged this fee in the amount of $179.04. I also see that this fee was discontinued on 3/9/17. You will see this credit on Fuel Management Report in 1-2 billing cycles. Should you not see this credit by then, please contact our offices, so that we can correct this for you."

10/17/16 Complaint. "We were charged a "TRANSACTION FEE" of $299.99 on our 9/16/2016 billing statement. When we called to inquire we were told that it was tied to our credit rating and is assessed every 90 days. We have asked for documentation to support this charge and no one can provide anything. We KNOW our credit score has not gone down in years. We pay off all credit cards monthly and are never late. No one will return our repeated requests for documentation to support this charge. Our suspicion is that this is a systemic issue that didn't just happen to us and they should be investigated for fraud.--- Consumer Relationship with filer: Other --- Have contacted: CC Issuer --- Fair Resolution: We'd like to know, specifically, what caused them to charge this fee. For example what our credit score was previously and what the change was that prompted the charging of this fee."

With respect to the first complaint, it should be noted that even though FleetCor conceded that the customer was overcharged, the company's remedy was a credit in one or two billing cycles. Throughout the course of our investigation we have observed that FleetCor generally offers to resolve issues regarding unwarranted fees by crediting the customer multiple billing cycles down the line. It is unclear why it would take more than one billing cycle to credit a customer. Moreover, it places the burden on the customer to verify that the credit is actually provided.

Universal Advantage FleetCard

We interviewed Nancy Lawrence, the bookkeeper for Oval Tennis regarding the company's experience using a Universal Advantage FleetCard. On December 8, 2016, Oval Tennis filed the following complaint with the BBB:

"Oval Tennis technicians use FleetCor's Universal Advantage Fleetcards to refill gas whenever using vehicles to access a job location. While cross-checking our gas receipts with the Universal bi-weekly bills, we noticed that starting on November 1, 2016, we were charged an additional 5% on each transaction, so far totaling almost $200. We attempted to address this matter, but upon calling Universal, we were met with hostility and rude dialogue from the Universal Advantage representative, *********. She indicated that after years of business with our company, we were flagged as "high-risk" and were told to call Dunn & Bradstreet to address any credit concerns, when we have never once had to contact this company as a liaison through Universal. Oval Tennis has been in business for over 40 years and has excellent credit history. As we tried to close out the account, we were told we would need to be "caught up" on payments before we could be transferred to someone who would be able to help close, although for our years of business we have never been late on a payment."

In response to the complaint, FleetCor stated the following: "Good afternoon *******. I have taken a look at your account. We regret to lose you all as a customer due to this issue. I have issued a credit for $239.29; which is the overage charges due to your account being placed on level 2 pricing since November 1st. This credit is equal to the total gallons since the said date times 12 cents per gallon. Please keep in mind that you all would still be responsible for the remaining balance. I have also closed this account. If you have any further questions or concerns, feel free to contact our customer service department."

According to Ms. Lawrence, this was the second time that the company had been erroneously placed on Level 2 Pricing. The previous instance occurred approximately a year earlier and FleetCor agreed to remove the charges in that instance as well. Ms. Lawrence provided us with copies of several billing statements beginning with the November 16, 2016 statement, which contain handwritten markings demonstrating the type of reconciliation process required to identify Level 2 Pricing.

"Business owners don't have time to cross check all those gas receipts against the invoices each month," Lawrence explained. She also noted that Oval Tennis elected to cancel their cards after the second discovery of Level 2 Pricing and the company now uses another gas card. This is consistent with accounts from other customers who have also stated that attempting to correct a billing error often requires persistence due to a variety of factors including long wait times, front line customer service representatives who are unable to address issues without management approval, and delays in management follow-up. Given that Level 2 Pricing is charged at the transaction level, it is likely that many customers are simply unaware of the incremental charges on their bills.

Oval Tennis also provided us with a recent billing statement that includes terms and conditions allowing FleetCor to impose both Level 2 pricing (at 10 cents per gallon) and High Credit Risk Fees in tandem. The terms and conditions for the Universal Advantage FleetCard also permit FleetCor to impose the MPAF and suspend rebates when fuel prices are below $3.25. Again, it is unclear when and how FleetCor implements these various fees. As such, it would be very difficult for a customer to have a baseline expectation regarding the amount of fees to expect each billing cycle.