

EUROPEAN COMMISSION

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GREEN PAPER:

**Towards an integrated European market for card, internet and mobile payments
COM(2011) 941**

Danske Bank, welcomes the Commissions Green Paper launching a public dialog re. the payment landscape on cards, internet and mobile payments - and hereby submits our view on the Green Paper.

Danske Bank Group is the largest bank in Denmark and a leading player in the northern European financial markets, with 645 branches in 15 countries. Danske Bank Group focuses on retail banking by offering a wide range of financial services including insurance, mortgage finance, asset management, brokerage, real estate and leasing services. Danske Bank Group has more than 5 million retail customers and a significant share of the corporate and institutional markets. Danske Bank offers retail banking activities in Denmark, Finland, Sweden, Norway, Northern Ireland, the Republic of Ireland and the Baltic Countries. The Group also have branches or subsidiaries in London, Hamburg, Luxembourg, Warsaw, New York, and St. Petersburg.

Danske Bank recognizes the Commissions intentions of improving and integrating the payment market in Europe. The Green Paper is a useful contribution to bring forward the vision for electronic retail payments in euro across the EU. We appreciate this initiative from the Commission which gives us the opportunity to contribute with our views in this area.

We wish at the same time to underline the very important work done in SEPA and the contribution to this done by the European Payment Council. We fully support this work and share the vision that there should be no distinction between cross-border and domestic payments.

Whilst the Green Paper purports to support the Commission's admirable objective of paving the way for the emerging e-, m-, and card payments, the actual focus on this important subject is regrettably small. The focus should be on addressing the likely obstacles to a smooth transition from inefficient methods of payment, such as cash and cheques, to cards, e- and m-payments. Europe needs a wide range of cards, e- and m-payment methods, provided by a broad spectrum of EU based payment service providers. This is best achieved through market-driven solutions.

General remarks to the Green Paper

The Green Paper appears as not appreciating or supporting the work performed so far by EPC, or accepting the industry-driven improvements from PCI (PCI DSS) and EMVCo.

The Green Paper to a very large degree seems to be based on the assumption that the recent years have not led to any significant improvement in the payment market, and competition and integration need to be improved by regulation. We do not share this view at the present landscape of the payment market. These assumptions are substantial and we do recommend that more work is being done in this field and documentation put forward before further initiatives are taken towards new regulation.

In our opinion it is not advisable to force a vision on a highly innovative and differentiated market through regulation.

At the same time when looking at prices, costs and transparency in the payment market, we find that the Commission must have a broader view on these matters. Why is cash, cheques etc not included in comparing security, operation ability and cost issues? The handling of cash and checks are often far more expensive than handling electronic payments.

The Commission has recognised¹ that cash is a less efficient payment method than cards and other electronic means of payments. It is therefore

¹ **A:** European Commission: "Annex to the proposal for a Directive of the European Parliament and of the Council on Payment Services in the Internal Market, Impact Assessment", COM (2005) 603, at page 7 and ...

B: ... European Commission: "Sector Inquiry under Article 17 Regulation 1/2003 on retail banking. Interim Report I: Payment Cards" 12 April 2006, page 12.

C: See Bergman, M. Gabriella G. and Björn S. "The Costs of Paying – Private and Social Costs of Cash and Card" Sveriges Riksbank Working Paper Series 212 (September 2007)

surprising that the Commission is considering introducing measures which will increase the use of cash and which will doubtless prove to be deeply unpopular with European citizens. The same conclusion is shown in a survey published by the Danish National Bank the first of December 2011².

It is important that we look upon the payment market as a global market. Many global companies, such as PayPal, Google, Apple and telephone operators, have a huge impact on the market. There is a lack of understanding in the Green Paper that regulation should promote – not dictate – innovative solutions that could help the payments industry to boost the economy and through competition benefit consumers and merchants.

EU-regulation that do not take the global perspective into account will harm the competitiveness of the European payment industry and the vision towards more integration and better payments methods, and will not lead to an increase in e-trading.

Furthermore the Green Paper assumes that payments, diversity of payment methods and payment security are some of the main barriers to the full growth of e-commerce.

Danske Bank strongly disagrees in this description of the current payment market. The growth in e-commerce is influenced by many factors and many of these are more important than the payment issue: The consumer's right and the legal situation are in many ways different from one member state to another, none or difficult complaint and redress procedures, language differences, handling fees and postage are obstacles for getting consumers to actually take advantage of the e-commerce. Other factors are convenience, and the consumers fear of fraud.

The paper does not take the present cards payment industry's work on security and providing payment guarantee into account. Implementing the EMV-chip was one important initiative to more secure payments. This has led to a sharp reduction in losses in many member states. At the same time we wish to draw the Commissions attention to the fact that the Payment Service Directive at a great extent protects consumers against fraud and misuse of payments instruments.

In our opinion it is difficult primarily to harmonise security through regulation and therefore not advisable. The methods and technology payment security is based upon are highly dynamic and the solutions depend on the different payments instruments and markets. A regulation that does not take these matters into account can stop the dynamic evaluation.

² http://www.nationalbanken.dk/DNDK/Publikationer.nsf/side/Omkostninger_ved_betaling_i_Danmark_rapport!OpenDocument

Card payments and e- and m-payments

We must encourage the Commission seeing the payment instruments in the Green Paper as separate means of payment. M-payments and e-payments are not just another branch of card payment. We consider these methods of payments to be different and each of them must undergo an evaluation of their own. The evaluation can of course be parallel – but alone due to maturity of development considered in separate tracks for instance like in Holland and Austria³.

Analyses of the payment market must take into consideration that the current situation for the card market and the market for e- and m-payments are highly different and have their own ways of adapting to the markets. E- and m-payments are in hasty process and this process depends to a large degree on national and regional matters, such as domestic law, the way the new technology is being used in the member states, consumer habits etc.

When looking at payment cards we should differ between payment with debit cards and credit cards – as choosing a credit card payment can be based on the need for the credit facility linked to the card. When discussing a comparison of cost linked to the payment the merchant must never know these customer costs – and a comparison can be a miscalculation. The use of prepaid cards can be included as well as person-to-person transactions by a mobile phone.

Although new channels obviously creates an increased potential for cross-border commerce, it should be remembered that the bulk of transactions also for distance trade/e-commerce are local (often more geographically narrow than “national”, e.g. within a city) by its nature (i.e. not as a consequence of payment methods or channels available), as a large portion of e-commerce/distance trade is in sectors like:

- ticketing for local transport or travelling with the local city as starting point
- ticketing for entertainment, such as movies and theatres
- grocery home deliveries
- books or DVDs in the native language
- clothing that are in fashion in one country, but not others
- access to telecommunication services
- etc.

Therefore the main business cases for payment service providers and merchants to invest in infrastructure for payments in the e- and m-channel often has been built on domestic solutions in lack of alternatives. In contrast, when cross-border solutions – such as those delivered by the international card schemes – have been developed, they are required to be glob-

³ European Retail Action Plan, First Workshop. (3. Feb. 2012 – EU Commission)

ally viable to include all potential cross-border commerce, not just the Intra-European, as consumers do not like to discriminate between Europe and the rest of the world.

Special issues

Further regulation

In general we see no need for further regulation. As mentioned above we look upon the payment market as a global market. EU-regulation that do not take the global perspective into account will harm the competitiveness of the European payment industry and the vision towards more integration and better payments methods, and will not lead to an increase in e-trading.

There is a lack of understanding in the Green Paper that regulation should promote – not dictate – innovative solutions that could help the payments industry to boost the economy and through competition benefit consumers and merchants.

Interchange fees (MIF)

MIF is a global accepted standard in the world economy and will be the sound foundation for the global card-, e- and m-payments industry. Current European markets, in terms of e.g. market conditions, market structures and payment instruments, are still different and therefore pricing and cost structures as well as other elements of market structure and efficiency vary in the Member States.

Interchange rates are set based on the costs incurred to both Issuers and Acquirers, paid by the Acquirers to the Issuers on a per transaction basis and covering such costs as:

- The guarantee of payment from the card issuer, given that the retailer is paid by the acquirer in advance of the cardholder being debited;
- Payment to cover the interest free period, i.e. the time between a cardholder shopping on their card and them paying their credit card bill;
- Processing of security and fraud prevention measures such as authorisations, managing hot card files, etc.;
- Projects such as contactless card payments, etc.
- General processing costs;
- Development of innovative payment options

The Card Schemes manage the interchange fees, while they have no remit over the set-up of Merchant Service Charge fees, set by the Acquirers and which may or may not reflect the interchange value / level for certain payment products.

Interchange fees are paid between acquirers and issuers – the levels should therefore be determined by competition by these market actors.

We do support transparency regarding fees paid by the customers – but pricing a product must be based on market competition and be considered a trade secret.

As mentioned above we find it very problematic if regulation in these areas is being considered.

Surcharging should not be allowed.

If however it should be mandatory it must cover all kind of payments also costs when paying with cash, cheques and other means of payments. How the cost must be presented to the customer in a comparable way is very difficult to establish – but surcharging on one payments means only will undermine a neutral choice between payment options available.

Access to settlements systems

We see no problem today, but we strongly disagree if non-banks are given access to clearing and settlements systems.

Participating direct in clearing and settlement systems requires full approval as a banking partner due to the pull clearing. If non-banks are complying with the same regulation as ordinary banks – capital adequacy etc. they should be eligible for participation.

Full trust must be maintained to the clearing and settlement systems. It is therefore of utmost importance that participating in clearing and settlement systems is only accepted if an entity is supervised by the Financial Supervision Authorities.

One other key issues is how to have a balanced sharing of cost structure and risk/fraud.

Non-Banks access to information in bank accounts

The Danske Bank is very concerned that this recommendation can create huge problems if followed.

There is no need to provide third-parties with access to information pertaining to the availability of funds in accounts as banks are not permitted to provide third-parties with information linked to an account. By doing so, the bank would stand the risk of breaching data protection, privacy and banking secrecy laws even though the customer has given a prior approval.

Any access to information on the availability of funds in PSP accounts for third parties is an extremely complex and challenging issue.

The respect of data protection and banking secrecy are amongst the key requirements to be considered when looking at this issue.

There should be consistency across the EU in terms of legal regime in the areas of data protection, banking secrecy and protection of personal security credentials.

Reference to an “agreement of the customer” does not mean that the requirement for compliance with existing legal, regulatory and contractual obligations is actually fulfilled. Furthermore the customer might not be aware of the scope or implication of his “agreement”. In addition, the opportunity for abuse by third parties and the risk of infringement of data protection and banking secrecy laws would be wide-reaching and detrimental to the objective of preserving payment integrity and the trust of consumers in the confidential handling of personal and financial data.

This concern is supported by recent negative experience with certain global innovative developments in the internet and mobile communications areas e.g. social networking and tracking of personal data linked to the use of innovative mobile devices. In these cases the handling of personal data – with the alleged consent of the relevant data owner – led to misuse of personal data in contravention of European and national data protection and privacy laws.

Merchant are able to eliminate the risk of insufficient funds via the present authorization process in cards infrastructure, under the EMV standards.

Security

We strongly recommend not to put up a regulatory framework for security. Market driven solutions (payer bank and issuer) should create sufficient security solutions for both cards-, e- and m-payments.

EMV compliant transactions are secure enough in physical and mobile proximity environment. Further penetration of EMV in EU and especially globally would improve this. Increasing security on card payments and e-payments via two factor auth. should be encouraged (- or similar functionality) to built more trust in payments from consumers and merchants.

All players have a business rationale to minimize security issues and doing everything to prevent such risks for instance by using 3 D Secure.

Questions

*1) Under the same card scheme, MIFs can differ from one country to another, and for cross-border payments. Can this create problems in an integrated market? **No***

*Do you think that differing terms and conditions in the card markets in different Member States reflect objective structural differences in these markets? **Yes***

*Do you think that the application of different fees for domestic and cross-border payments could be based on objective reasons? **Yes***

Answer

EU is not an isolated isle in a global market. MIFs is a global accepted standard in the world economy and will be the sound foundation for the global card- e- and m-payments industry. Currently European markets, in terms of e.g. market conditions, market structures and payment instruments, are still different and therefore pricing and cost structures as well as other elements of market structure and efficiency vary in the Member States.

Interchange fees are paid between acquirers and issuers – the levels should therefore be determined by these market actors, not by the card schemes. As the majority of payments are local – also for e-commerce – this can be accomplished through bilateral agreements or with domestic MIFs decided by a qualified majority of market participants. MIFs are fallbacks, used in lack of a bilateral agreement.

Countries differs in levels of maturity in card penetration and acceptance, competition of domestic schemes with barriers to entry from outside the country, proportions of unbanked and banked, costs of cash, clearing and settlement structure, different currencies etc. which explains differences in interchange fee levels. Different levels applies also for incentivising adoption of a new technology, particularly to increase security and reduce fraud, and differing adoption levels result in different average fee levels.

It is expected, in a longer run, that situation regarding both domestic payments as well as cross-border card payments in EU should be more converged. Transition period for such convergence is supposed to be needed, to ensure full participation and integration. In addition, consumer and corporate customer needs differ significantly resulting in different services and related risks. Differences in the short run can be economically sound and cannot create problems in an integrated market – unless you are very hasty.

*2) Is there a need to increase legal clarity on interchange fees?
If so, how and through which instrument do you think this could be achieved?*

Answer

The principle concept and role of MIF should be recognised. Possible usage and levels of MIF's should be determined within the competition domain (market) on commercial and other relevant basis, not by legal clarification alone. It is a challenging situation for the whole value chain linked to card payments if and when the concept and role of MIF is unclear and without continuity.

The current uncertainty is directly anti-competitive as it hampers entrance in the market. The principle concept and role of MIF should be recognised. Possible usage and levels of MIF's should be determined within the competition domain (market) on commercial and other relevant basis, not by legal clarification alone. It is a challenging situation for the whole value chain linked to card payments if and when the concept and role of MIF is unclear and without continuity.

There is a need to establish clarity on the appropriate procedures for determining multilateral interchange fee levels that meets the criteria of the TFEU article 101.3. There is also a need to establish certainty that no legislation other than the competition law of the TFEU will be enforced on card interchange, as will be the case for direct debits in the SEPA-end date regulation. Recital 15 states that there are significant differences in card payments and direct debits in regards to the need for interchange fees. In that context there might also be a need to establish a clear definition of card payments. On both needs, the certainty must extend harmonised to all EEA countries.

*3) If you think that action on interchange fees is necessary, which issues should be covered and in which form? **Disagree**
For example, lowering MIF levels, providing fee transparency and facilitating market access? Should three-party schemes be covered?
Should a distinction be drawn between consumer and commercial cards? **Yes***

Answer

As stated in response to question 2 the appropriate methodology for determining multilateral interchange fee levels that meets the criteria of the TFEU article 101.3, should be clarified. MIFs should be transparent to those who pay them, but bilateral agreements must of course remain business secrets. Incentive levels for innovation and risk mitigation should be endorsed. The change dynamics in interchange fees must be enhanced, so that schemes and CSMs must be obliged to enter into force changed or new MIFs or bilateral agreements no later than 60 days after being submitted to them. Commercial cards provides substantial

benefits to the merchant sectors that commercial cards are originally and foremost aimed for, which motivates higher interchange fees for commercial cards when used in those sectors.

*4) Are there currently any obstacles to cross-border or central acquiring? **Yes, see comments below** If so, what are the reasons? Would substantial benefits arise from facilitating cross-border or central acquiring?*

Answer

We are not aware of any obstacles to cross-border or central acquiring in our home markets – however cross-border acquiring should be encouraged. Obstacles, such as licensing etc. should be acted against in EEA. Work regarding harmonising technical standards (e.g. EPC Volume) should be supported across borders voluntarily. Cross border acquiring is undermined by domestic card schemes as agreements must be made with each of these domestic schemes – being difficult to install and maintain. Also merchants faces a hard time recognising many cards from a high number of schemes.

In the international four-party card schemes, there are no significant obstacles to cross-border acquiring, which is proven by a number of acquirers operating in Denmark from other European Countries. When new payment channels are wider implemented (such as smart-phones etc.) the cross-border activities are likely to increase.

5) How could cross-border acquiring be facilitated? If you think that action is necessary, which form should it take and what aspects should it cover? For instance, is mandatory prior authorisation by the payment card scheme for cross-border acquiring justifiable? Should MIFs be calculated on the basis of the retailer's country (at point of sale)? Or, should a cross-border MIF be applicable to cross-border acquiring?

Answer

By removing obstacles and balancing possibilities to offer cross-border acquiring compared with national acquiring e.g. licensing. To a great extent this is regulated via SEPA Card Framework – giving a right to operate in all EU member states.

The issue of the relevance of country-based differences in MIFs should be discussed directly, which is done in Q1. But as long as there are differences in MIFs, the only rationale that is *not* anti-competitive is to determine the applicable MIF by the *combination* of the issuing country and the merchant country. This puts cross-border and domestic acquirers on equal footing in regards to interchange. Otherwise cross-border acquirers would gain an unjustified advantage over domestic acquirers in high-MIF countries, and vice versa would not be able to compete at all in low-MIF countries.

When looking at other e-payments than cards we must look into a new ‘profit and cost chain’ – as MIF’s are not likely to be the same when looking at other m-Payments, including other parties – like phone operator etc.

6) What are the potential benefits and/or drawbacks of co-badging? Are there any potential restrictions to co-badging that are particularly problematic? If you can, please quantify the magnitude of the problem.
Should restrictions on co-badging by schemes be addressed and, if so, in which form? No

Answer

Benefits include cost-efficiency for the issuer, availability of multiple payment instruments at POI for the merchant and foremost convenience for the payer. Co-badging of the payment instrument should be agreed between the issuer and the cardholder. An EMV card chip is a channel that just like a mobile phone can contain several payment applications as well as other applications. Multi-application in EMV chip must be allowed, and there are rules for that in the SCF.

However the paper shows some misunderstanding with respect to Co-Badge, Co-Brand, Combination Payment Cards, Multi Option Cards, etc. etc. – plus Mag-stripe / Chip cards. When looking at M-Payment no Co-Badge is expected as each will be represented as own ‘identifiers’. This should not be addressed in this Green Paper as it is covered by EPC and SEPA Cards Framework.

7) When a co-badged payment instrument is used, who should take the decision on prioritisation of the instrument to be used first? How could this be implemented in practice?

Answer

It should be the cardholder’s alone choosing which payment application/instrument to use after being presented to the payment instruments the merchant accepts. The merchant independently decides which payment instruments/ applications he will accept and terms for those in the acceptance agreements but must presents information about this to cardholder in advance. All the options mutually supported by the cardholder (card) and the merchants (POS) should be available for the cardholder for final selection. This should be including in the SEPA standardisation (“The Volume”). Similar options should be offered to the customer when using M- and E-Payment options

8) Do you think that bundling scheme and processing entities is problematic, and if so why? Yes, if it is misused
What is the magnitude of the problem?

Answer

Bundling of scheme and processing could limit the options available and thus the opportunity of unbundling the two should be available. It is only a concern if a dominant market participant abuses the position – by high scheme and processing fees. Such behaviour is prohibited by SEPA Card Framework.

Currently bundling can be problematic for some domestic schemes, mandating domestic CSM's. The level of unbundling prescribed by the SCF is enough, if implemented by the schemes.

9) Should any action be taken on this? No

Are you in favour of legal separation (i.e. operational separation, although ownership would remain with the same holding company) or 'full ownership unbundling'?

Answer

The level of unbundling prescribed by the SCF should be enough, if there would be efficient governance of the implementation and management of these rules. Additionally, regular competition law applies on any malpractices. Any further action in this area must be done in ways that preserves the integrity of the system.

What is essential is that there in practice is an effective separation. But if regulation is effected it must not be a burden for schemes and processors, that have already effected separation. Regulation must also give the opportunity to domestic schemes outside the euro area to regulate the market for payment in their own currency.

10) Is non-direct access to clearing and settlement systems problematic for payment institutions and e-money institutions and if so what is the magnitude of the problem?

Answer

There is no problem today, but it will be most problematic, if non-bank are given access to clearing and settlements systems.

Participating direct in clearing and settlement systems requires full approval as a banking partner due to the full clearing. If non-banks are complying with the same regulation as ordinary banks – capital adequacy etc. they should be eligible for participation.

Full trust must be maintained to the clearing and settlement systems. It is therefore of up-most importance that participating in clearing and settlement systems is only accepted if an entity is supervised by the Financial Supervision Authorities.

Article 28 in the PSD allows payment institutions access to payment systems. But rules for admission may exist if they are necessary to safeguard against specific risks such as settle-

ment risk, operational risk and business risk and to protect the financial and operational stability of the payment system. And systems designated under the FSD are exempted from this PSD Article.

*11) Should a common cards-processing framework laying down the rules for SEPA card processing (i.e. authorisation, clearing and settlement) be set up? **No***
*Should it lay out terms and fees for access to card processing infrastructures under transparent and non-discriminatory criteria? **No***
*Should it tackle the participation of Payment Institutions and E-money Institutions in designated settlement systems? **No***
*Should the SFD and/or the PSD be amended accordingly? **Yes***

Answer

Rules for SEPA card processing are in place to day. Further regulation could reduce competition and innovation that could benefit the consumers and increase security in the payments transactions.

Common acquiring protocols should be encouraged – but also influenced by work of the Berlin Group SEPA clearing for Card.

When it comes to E- and M-payments the cost and business models are not clear and therefore this is very difficult to give answers to.

*12) What is your opinion on the content and market impact (products, prices, terms and conditions) of the SCF? Is the SCF sufficient to drive market integration at EU level? **Yes***
*Are there any areas that should be reviewed? Should non-compliant schemes disappear after full SCF implementation, or is there a case for their survival? **No***

Answer

SCF should be expanded and updated to cover all card payments and e-commerce reflecting the development within EU. It would be beneficial if all card schemes, issuers, and acquirers were SCF compliant, and in this respect long migration and transition periods are recommended.

*13) Is there a need to give non-banks access to information on the availability of funds in bank accounts, with the agreement of the customer, and if so what limits would need to be placed on such information? **Disagree***
*Should action by public authorities be considered, and if so, what aspects should it cover and what form should it take? **Disagree***

Answer

There is no need to provide third-parties with access to information pertaining to the availability of funds in accounts as banks are not permitted to provide third-parties with information linked to an account without the prior approval of the customer. By doing so, the bank would stand the risk of breaching data protection, privacy and banking secrecy laws.

This concern is supported by recent negative experience with certain global innovative developments in the internet and mobile communications areas e.g. social networking and tracking of personal data linked to the use of innovative mobile devices. In these cases the handling of personal data – with the alleged consent of the relevant data owner – led to misuse of personal data in contravention of European and national data protection and privacy laws.

Merchants are able to eliminate the risk of insufficient funds via the present authorization process in cards infrastructure, covering EMV standards. There is an obligation to card issuers to verify this information real-time through on-line authorisation processes.

Same reservations must cover also E- and potentially M-payments.

Having said that, there is clearly a need for third-party access in respect of authorization of specific transactions but only after complying with the following conditions:

1. Access should be staged
2. A contractual relationship between the entities involved should be present
3. Third parties should be certified
4. Commercial relationships should exist between PSPs and third parties (service fee)

There should be consistency across the EU in terms of legal regime in the areas of data protection, banking secrecy and protection of personal security credentials.

Reference to an “agreement of the customer” does not mean that the requirement for compliance with existing legal, regulatory and contractual obligations is actually fulfilled. Furthermore the customer might not be aware of the scope or implication of his “agreement”. In addition, the opportunity for abuse by third parties and the risk of infringement of data protection and banking secrecy laws would be wide-reaching and detrimental to the objective of preserving payment integrity and the trust of consumers in the confidential handling of personal and financial data.

Cost related to the infrastructure when complying to regulatory, risk, confidentiality, and technical requirements are considered huge.

*14) Given the increasing use of payment cards, do you think that there are companies whose activities depend on their ability to accept payments by card? **No, alternatives exist***

Please give concrete examples of companies and/or sectors. If so, is there a need to set objective rules addressing the behaviour of payment service providers and payment card schemes vis-à-vis dependent users?

Answer

The more global and international eBusiness are, the more relevant card payments may appear – it is however difficult to state if there is an dependency hereof as other payment instruments are available today. Due to this broad variety of payment means no specific card related rules are needed – and if they should be addressed anyway they must cover all payment methods, like mobile payment, e-payments etcetera.

Most likely consumers prefers cards due to convenience.

The text in the Green Paper indicates that the situation have contributed to the development of digital currencies – which due to their nature should be worked and regulated against, as they have limited area of use (like McDonalds Coins only useable within McDonald restaurants), they cannot be exchanged into other currencies and often holds an expiry date (- reducing value to zero).

*15) Should merchants inform consumers about the fees they pay for the use of various payment instruments? **No***

*Should payment service providers be obliged to inform consumers of the Merchant Service Charge (MSC) charged / the MIF income received from customer transactions? **No***

*Is this information relevant for consumers and does it influence their payment choices? **No***

Answer

Surcharging should not be allowed.

Nothing prevents merchants from disclosing to payers whatever information they want on their different costs. However merchants do not typically disclose to customers their cost of the goods compared with their price. The grocery store does not disclose how much of the price for a litre of milk that goes to the farmer, the dairy, the distributor etc. Merchants may consider their payment fee information a competitive secret that they do not want to disclose to its competitors.

Transparency of the consumer fees are encouraged – however the total cost chain is very difficult to address. These fees are only one element in the cost structure. If this should be

clear to the customer and forming a base for decision of payment methods every cost element must be clear – including electricity, rent, wage, production cost, and so on. Merchants are not likely to reveal cost of goods, payments etc. as it is considered a trade secret.

If however it should be mandatory it must cover all kind of payments also cost when paying with cash, cheques and other means of payments. How the cost must be presented to the customer in a comparable way is very difficult to establish.

MIF is not an issue for the customer to compare – as the customer is not dealing with the PSP directly.

*16) Is there a need to further harmonise rebates, surcharges and other steering practices across the European Union for card, internet and m-payments? **No***

If so, in what direction should such harmonisation go? Should, for instance:

- certain methods (rebates, surcharging, etc.) be encouraged, and if so how?*
- surcharging be generally authorised, provided that it is limited to the real cost of the payment instrument borne by the merchant?*
- merchants be asked to accept one, widely used, cost-effective electronic payment instrument without surcharge?*
- specific rules apply to micro-payments and, if applicable, to alternative digital currencies?*

Answer

Overall no further harmonization is needed for card, -e, or m-payments. Using rebates et cetera are competitions parameters and should not be regulated – driving cost in a decreasing direction.

If surcharging is allowed, merchants should be obliged to apply it to all payment methods, including cash, according to their respective cost. Only need for regulation can be rules preventing topping up of surcharging fees – limiting this to cost based surcharging.

Regulation of surcharging is a member state option of the PSD which has led to very diverging implementations of the PSD. These differences are creating confusion among consumers, and in some cases discrimination of both consumers and payment service providers from other countries. This must be changed, so that are legal harmonisation on surcharging, no member state options. Surcharging could then for good reasons be disallowed on EU level, as most member states already have.

All researches indicate that cash payments bear high cost, and a fee for cash payments is not charged. See our remarks in the beginning of this paper.

We see no need for specific rules for micro-payments.

17) Could changes in the card scheme and acquirer rules improve the transparency and facilitate cost-effective pricing of payment services?

*Would such measures be effective on their own or would they require additional flanking measures? Would such changes require additional checks and balances or new measures in the merchant-consumer relations, so that consumer rights are not affected? **No***

*Should threeparty schemes be covered? **Yes***

*Should a distinction be drawn between consumer and commercial cards? **Yes***

*Are there specific requirements and implications for micropayments? **No***

Answer

Transparency on pricing should be sustained within the agreements between

- a bank and its consumer customer
- a bank and its merchant customer,
- and the implicit agreement between the consumer and the merchant

– but not across, i.e. between parties not involved in the same agreement.

These issues are managed in the card scheme rules and have in 2010 been updated with unblended rules on pricing and reporting for at least two global schemes. Such undertakings should be valid for all card schemes in the EU be they three or four party. Also there is the need for rules for acquiring competition on three party schemes that today monopolize acquiring and sometimes also processing. In the four party schemes market there is normally strong competition between multiple acquirers and no further rules need to be considered except the existing adherence to the EU competition legislation.

Consumers should be covered for transparency purposes, and we believe they are today. Regarding Corporate cards/companies we believe that there is no need for equal regulation, as they are considered being more professional and capable of taking advantage of market competition.

*18) Do you agree that the use of common standards for card payments would be beneficial? **Agree***

What are the main gaps, if any? Are there other specific aspects of card payments, other than the three mentioned above (A2I, T2A, certification), which would benefit from more standardisation?

Answer

Common standards are beneficial regarding both cards-, e-, and –m-payments. Standards should be global and standard should reduce the cost by involved partners compared to individual standard scheme by scheme. EPC and CSG are undertaking a job at present to outline standards (minimum) – and we consider no further actions are needed.

*19) Are the current governance arrangements sufficient to coordinate, drive and ensure the adoption and implementation of common standards for card payments within a reasonable timeframe? **Yes***

*Are all stakeholder groups properly represented? Are there specific ways by which conflict resolution could be improved and consensus finding accelerated? **Yes***

Answer

Regarding card payments, standardization work is being done actively (via EMV; PCI; 3-D Secure) and in a determined manner in various global and European standardization bodies in which relevant governance arrangements has been agreed upon. In the European context (cards area), the Cards Stakeholders Group and Card Working Group are working actively and the representation of the key stakeholders is covered. The stakeholders are also participating – and encouraged to participate in various industry standardisation bodies and pilot programmes. These existing bodies are considered sufficient. A long migrations period to standard reduces ineffectiveness and level options between present and new players in a payment area to increase competition.

20) Should European standardisation bodies, such as the European Committee for Standardisation (Comité européen de normalisation, CEN) or the European Telecommunications Standards Institute (ETSI), play a more active role in standardising card payments?

No

In which area do you see the greatest potential for their involvement and what are the potential deliverables? Are there other new or existing bodies that could facilitate standardisation for card payments?

Answer

From the card industry point of view, the European standardisation bodies have taken sufficiently active role in the standardisation. Regarding card payments, standardization work is being done very actively in various global standardization bodies where European stakeholders are actively participating –and also we must trust the market driven approach to standardisation of card payments. If CEN or ISO should participate it must be to support as global standards as possible - as card industry should try to find ways to capitalise on such global standards and standardisation to as large extent as possible.

Outside Cards area already a number of bodies are involved in the process – like ISO, Mobile Forum, GSMA and others. As far as new potential areas of involvement are concerned, one such domain could be the interoperability of payment schemes

*21) On e- and m-payments, do you see specific areas in which more standardisation would be crucial to support fundamental principles, such as open innovation, portability of applications and interoperability? Yes
If so, which?*

Answer

Standards should be global standards. And the basis for that are workable business models, i.e. the creation of a level playing field for all roles in the value chain.

There is a natural challenge and contradiction that by the same means pursuing standardization and open innovation in the aim of achieving interoperability.

Throughout the Green Paper, there is a recurrent mixing of core payment instruments – such as credit transfers, direct debits and card payments – with channels – such as the internet or the mobile phone – and the payment initiation method. This results in a skewed foundation for the questions asked on “e-” and “m-” payments, though the occurrence of new channels in itself could be driving the need for additions to existing standards for the core payment instruments.

Example of that be found in the identified need of an instant Confirmation of Payment from payer to payee and/or the need for immediacy of payment driven by other “buy and sell situations” the use of new channel leads to, a higher expectation of speed in completion of a payment transaction for example. But introducing new standards in this area without any connection to the responsibilities for underlying payment instruments would be of no practical use.

*22) Should European standardisation bodies, such as CEN or ETSI, play a more active role in standardising e- or m-payments? No
In which area do you see the greatest potential for their involvement and what are the potential deliverables?*

Answer

We do not see the need for any change in the roles of the European standardisation bodies as they are already playing a significant part in many different ways. We do however also

see ISO as an important player in the standardisation process and at the same time a large number of European countries already have a strong presence within ISO. As far as new potential areas of involvement are concerned, one such domain could be the interoperability of e-payment schemes.

23) Is there currently any segment in the payment chain (payer, payee, payee's PSP, processor, scheme, payer's PSP) where interoperability gaps are particularly prominent?

No

How should they be addressed? What level of interoperability would be needed to avoid fragmentation of the market? Can minimum requirements for interoperability, in particular of e-payments, be identified?

Answer

No part of the payment chain show more obvious gaps— and the SEPA Standardisation (Volume-book) addresses these issues related to cards.

Although new channels obviously creates an increased potential for cross-border commerce, it should be remembered that the bulk of transactions also for distance trade/e-commerce are local (often more geographically narrow than “national”, e.g. within a city) by its nature (i.e. not as a consequence of payment methods or channels available, as a large portion of e-commerce/distance trade is in sectors like

- ticketing for local transport or travelling with the local city as starting point
- ticketing for entertainment, such as movies and theatres
- grocery home deliveries
- books or DVDs in the native language
- clothing that are in fashion in one country, but not others
- access to telecommunication services
- etc.

Therefore the main business cases for payment service providers and merchants to invest in infrastructure for payments in the e- and m-channel often has been built on domestic solutions in lack of alternatives. In contrast, when cross-border solutions – such as those delivered by the international card schemes – have been developed, they are required to be globally viable to include all potential cross-border commerce, not just the Intra-European, as consumers do not like to discriminate between Europe and the rest of the world.

24) How could the current stalemate on interoperability for m-payments and the slow progress on e-payments be resolved? Are the current governance arrangements sufficient to coordinate, drive and ensure interoperability within a reasonable timeframe? Are all stakeholder groups properly represented? Are there specific ways by which conflict resolution could be improved and consensus finding accelerated?

Answer

We see no current stalemate on inter-operability for m-payments and slow progress on e-payments. We are in an innovative phase where multiple solutions are tested, and where competition will show what the merchants and consumers will prefer.

Market development will create interoperability, but creating a common business model is difficult to support long term investment in a fast growing payment structure – and the stalemate is more dependent of the business model than on the interoperability.

What we see in the market is a huge number of companies launching different payment instruments residing on a mobile phone but with no intention of being interoperable with other mobile based payment instruments. Does the question imply that such emerging different payment instrument should be directly or indirectly suffocated by the intention of interoperability for all offered mobile payment instruments? Again, the call for interoperability and standards showing the way must be based on the same business roles for each participant.

E-commerce payments are developing in good pace with e-commerce card payments and multiple card schemes today offer e-commerce payments. There is no slow development in this area. In the m-commerce area there are multiple markets for commerce and also need for future payments but already now it is possible to use card payments on e-commerce by using internet enabled mobile devices. The market driven approach with competition between different providers is to be preferred

25) Do you think that physical transactions, including those with EMV-compliant cards and proximity m-payments, are sufficiently secure? **Yes,**
If not, what are the security gaps and how could they be addressed?

Answer

EMV compliant transactions are secure enough in physical and mobile proximity environment. Further penetration of EMV in EU and especially globally would improve this. Increasing security on card payments and e-payments via two factor auth. should be encouraged (- or similar functionality) to build more trust in payments from consumers and merchants.

All players have a business rationale to minimize security issues and doing everything to present such risks.

26) Are additional security requirements (e.g. two-factor authentication or the use of se-

*cure payment protocols) required for remote payments (with cards, e-payments or m-payments)? If so, what specific approaches/technologies are most effective? **No***

Answer

Market driven solutions (payer bank and issuer) should create sufficient security solutions – that should be included in the SCF Volume to outline standards.

*27) Should payment security be underpinned by a regulatory framework, potentially in connection with other digital authentication initiatives? **No**
Which categories of market actors should be subject to such a framework?*

Answer

If a regulatory framework is set up it may protract the development of future innovative and secure means of payment methods, and therefore not considered needed.

28) What are the most appropriate mechanisms to ensure the protection of personal data and compliance with the legal and technical requirements laid down by EU law??

Answer

PCI security standards, EMV-chip cards and 3D-encryption ensures that EU and local requirements are fully complied to.

Both the general data protection requirements and the data protection rules for financial institutions are already laid down in EU law, with which all current payment systems have to comply. These rules are supervised by the Financial Supervision Authorities and the Data Protection Authorities and we find this appropriate.

*29) How do you assess the current SEPA governance arrangements at EU level? Can you identify any weaknesses, and if so, do you have any suggestions for improving SEPA governance? **No**
What overall balance would you consider appropriate between a regulatory and a self-regulatory approach? Do you agree that European regulators and supervisors should play a more active role in driving the SEPA project forward? **Disagree***

Answer

Self-regulatory approach should be the primary option, and appears (- up till now) to show efficiency needed. SEPA rules should be made mandatory in order to guarantee levelled competition for all parties within the EU.

30) How should current governance aspects of standardisation and interoperability be

*addressed? Is there a need to increase involvement of stakeholders other than banks and if so, how (e.g. public consultation, memorandum of understanding by stakeholders, giving the SEPA Council a role to issue guidance on certain technical standards, etc.)? Should it be left to market participants to drive market integration EU-wide and, in particular, decide whether and under which conditions payment schemes in non-euro currencies should align themselves with existing payment schemes in euro? **Agree***
If not, how could this be addressed?

Answer

Self-regulatory approach should be the primary option. In the cards area CSG is a relevant governance body in the standardisation area. There are also many other co-operation bodies for all the stakeholders, either within their sector or cross-sector (like OSCAR, EPASOrg, and the Berlin group – being open for participation to interested)

*31) Should there be a role for public authorities, and if so what? **Disagree***
For instance, could a memorandum of understanding between the European public authorities and the EPC identifying a time-schedule/work plan with specific deliverables ('milestones') and specific target dates be considered?

Answer

Self-regulatory approach should be the primary option. Naturally, active and continuous dialogue between the relevant parties e.g. between EPC and the European public authorities is essential – however we see no need for a Memorandum of Understanding between EPC and European public authorities.

32) This paper addresses specific aspects related to the functioning of the payments market for card, e- and m-payments. Do you think any important issues have been omitted or under-represented?

Answer

In general we support standardisation (regarding security, protocols etc. for operability reasons) - in preference to regulation - in order for all to slim the amount of work to be done to establish and operate in the payment market – but a lack of involving all means of payment is noteworthy. Why is cash, cheques etc not included in comparing security, operation ability and cost issues?

We do support transparency regarding fees paid by the customers.

We do not support regulations that interferes with possible product development – should be based on market competition alone.

As we are discussing electronic payments we must regulate in the light of a global world not limit our inspiration to EU or Europe – as over-regulated European electronic payment tools will limit our customers and merchants operating in a global market place – compared to for instance Asia and US-based companies.

Specific comments

Some of the prerequisites are by now out of date – like WAP as a common technical feature. It may be like that in some market – but in others it is not in work any longer. In stead we should perhaps aim the focus towards tomorrows payment mechanism and consider business models and the creating hereof – creating a model where cost are equally shared between the parties. We must also look into certain retailers (supermarkets, petrol companies etc.) creating own payment cards – are they working under the same regulations as banks, card schemes etc.?

Also we need to question the Green Paper comparing EU and the Asian market – especially when it comes to the Japanese example. The Japanese with many consumers active on the payment market is based on a large number of different payment solutions from many suppliers based on different standards and solutions. This is not a goal for our payment market – just visit a Japanese shop and realise the number of terminals and payment schemes, forcing a customer to choose without being able to compare prices for the various options.

The Green Paper states in paragraph 2.4, that EPC in cooperation with the GSMA issued a white paper on mobile payments – which appears incorrect. They have in common only issued an implementation guide. The wording used in paragraph 4.3 – page 16 – more correctly described as “. . . a paper outlining the roles and responsibilities of mobile operators and banks . . . “

One more comment related to paragraph 2 is that the Green Paper states a number of issues that prevent cards, e-, and m- payments to be developed – but to these the lack of payment devices must be added (- like the absence of NFC-options in terminals and mobile phones).