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GREEN PAPER

Towards an integrated European market for card, internet and mobile payments

(Text with EEA relevance)

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1. INTRODUCTION

Secure, efficient, competitive and innovative electronic payments are crucial if consumers, retailers and companies are to enjoy the full benefits of the Single Market, and increasingly so as the world moves beyond bricks-and-mortar trade towards e-commerce. The way goods and services are purchased in Europe is fundamentally changing. As EU citizens and businesses become increasingly active outside their country of origin, electronic payments that work smoothly across borders significantly facilitate their daily lives. Building on achievements in the field of retail payments, Europe has an opportunity to be at the cutting edge of what ‘making a payment’ could mean in the future, be it with a payment card, on the internet or by using a mobile phone.

A first important milestone on this journey is the Single Euro Payments Area (SEPA), which is based on the premise that there should be no distinction between cross-border and domestic electronic retail payments¹ in euro across the EU. The SEPA project covers the key retail payment instruments: credit transfers, direct debits and payment cards. From this basis, SEPA should be a springboard to creating a competitive and innovative European payments market in two ways. The first concerns the ever-growing proportion of on-line or internet payments (e-payments) and mobile payments (m-payments). Above all, the mass take-up of smart phones is changing the payments landscape and is leading to new payment applications, for example electronic purses, replacing wallets and physical cards, or virtual public transport tickets stored in a mobile phone. Here, the pan-European SEPA payment instruments can provide the basis for more integrated and secure payment innovations. Secondly, the existing standards and rules developed under SEPA could be re-applied to payment instruments in non-euro currencies, thereby taking the boundaries of a Single Market for payments beyond euro-denominated transactions.

The benefits of more market integration would mainly stem from four drivers:

- 1) *More competition* — in a network industry, such as payments, market access for new entrants or competitors from other Member States is facilitated through integration. Based on common open standards, service providers could offer their existing payment solutions in more than one country. This would expand their business base and hence create an additional incentive for innovation. As a result, the costs and prices of providing payments would converge downwards. Moreover, more

¹ Retail payments are defined as payment transactions where at least one party of the transaction (i.e. the payer, the beneficiary or both) is not a financial institution. Hence, retail payments represent all payment transactions which do not take place between two banks.

competition could mitigate the current domination of the payment cards market by the two existing international card schemes.

- 2) *More choice and transparency for consumers* — with a broader range of competitive services, payment users could choose the payment instruments and providers that best serve their needs. Today, the cost implications of the choice they make are often not visible to consumers². Due to hidden costs, often the most expensive payment method is used and costs are indirectly passed to all consumers through increased prices. By contrast, an integrated and transparent market would steer consumers towards the most efficient payment instruments.
- 3) *More innovation* — an integrated market increases scale effects. This means that existing players would have more opportunities to save costs or increase revenue. Furthermore, the incentives for innovation by new market entrants would be higher and the geographical scope of innovation would increase.
- 4) *More payment security and customer trust* — in line with the progress achieved in safe and secure payments at the point-of-sale, an integrated market would increase the security of, and consumer's trust in, remote payments, such as e-payments and m-payments.

An integrated EU market for payment services could also produce, as a by-product, administrative data that could be used for the production of harmonised statistics. This would increase the quality and scope of EU statistics, with no additional costs for companies and limited investment for the statistical community.

This Green Paper assesses the current landscape of card, internet and mobile payments in Europe, identifies the gaps between the current situation and the vision of a fully integrated payments market and the barriers which have created these gaps. The objective of the Green Paper is to launch a broad-scale consultation process with stakeholders to validate or contribute to the Commission's analysis and to help identify the right way to improve market integration.

2. CURRENT PAYMENTS LANDSCAPE AND ITS SHORTFALLS

The euro retail payments market is one of the largest in the world and involves millions of companies and hundreds of millions of citizens. According to statistics from the European Central Bank (ECB), in 2009 almost 58 billion retail payment transactions were made in the euro area alone. Annex 1 provides a breakdown by payment instrument. The economic benefits of integrating this market are substantial. For example, studies suggest that full migration to SEPA for credit transfers, direct debits and payment cards could yield direct and indirect benefits of more than EUR 300 billion over a six-year period. The current degree of payment integration at European level varies markedly between the various payment instruments (such as credit transfers, direct debits and payment cards) and channels (e- or m-payments) used to make a payment.

² This is the result of complex fees between the different payment service providers involved in the payment transaction and of charges from the payment service provider to the merchant selling a good or service.

2.1. Core payment instruments (credit transfers and direct debits)

Credit transfers and direct debits are the only payment instruments for which specific pan-European payment schemes exist, namely the SEPA Credit Transfer (SCT) and SEPA Direct Debit (SDD) rulebooks developed by the European Payments Council (EPC) for payments in euro. In December 2010, the Commission presented a proposal for a Regulation setting obligatory deadlines for migrating national payment schemes to pan-European schemes³. Reaching this essential milestone will lay the foundation for further market integration for the payment instruments and channels described below.

2.2. Payment cards

Payment cards are the most common and frequently used electronic payment instrument for retail payments. In terms of volume (number of transactions), card payments represented a third of all retail payments in 2009. There were some 726 million payment cards in use in the EU, representing 1.45 cards per capita. On average, EU consumers spent EUR 2 194 per card in 43 point-of-sale card transactions (in 2009⁴, see Annex 1 for country specific data).

However, integration of the European payment card market is far from complete and tangible results are still limited. A steep increase of the volume of card payments over the past decade and the resulting large scale effects have not led to any significant fall in consumer costs and inter-bank or merchant fees. Moreover, domestic debit card schemes are often not accepted outside the Member State of origin, which hinders the development of the Single Market. Fraudulent use of payment cards also remains an issue, especially for remote transactions.

2.3. Payments through the internet (e-payments)

E-payments are payments made over the internet, usually in one of these three ways:

- 1) Making a remote *payment card transaction* through the internet.
- 2) *Online-banking* based credit transfers or direct debits under which the payer uses an online banking portal for authentication (currently only operational at domestic level)⁵.
- 3) Payments through *e-payment providers*, with which the consumer has set up an individual account. Accounts can be funded through ‘traditional’ payment methods, for example bank transfers or credit card payments.

With the emergence of e-commerce, i.e. the buying and selling of products over the internet, e-payments play an increasingly important role. According to Forrester Research⁶, the number of online shoppers in Europe is forecast to increase from 141 million in 2009 to 190 million by 2014. Annual growth rates of the e-commerce market size over the next five years are projected at around 10 %. Average spending per capita at EU level is forecast to rise from

³ Proposal for a Regulation establishing technical requirements for credit transfers and direct debits in euros and amending Regulation (EC) No 924/2009, COM(2010)775,
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010PC0775:EN:NOT>.

⁴ Source: ECB Payment Statistics, February 2011. For detailed country statistics see Annex 1.

⁵ These transactions can either be made directly through the payer’s online banking system or via a third party (e.g. Ideal in the Netherlands, Giropay and Sofortüberweisung in Germany or EPS in Austria).

⁶ <http://www.forrester.com/ER/Press/Release/0,1769,1330,00.html>

EUR 483 in 2009 to EUR 601 in 2014. Despite its significant growth potential, e-commerce currently represents only 3.4% of all European retail trade⁷, so there still is considerable untapped growth potential.

According to a public consultation on the future of electronic commerce⁸, payments have been identified as one of the main barriers to the future growth of e-commerce. The related key issues identified in the consultation include the diversity of payment methods across Member States, the cost of payments for consumers and merchants, especially for low-value payments (micro-payments) and payment security. The lack of a coherent and comprehensive (self-) regulatory framework currently leads to a European e-payments environment that is largely fragmented along national borders with a small number of successful domestic e-payment schemes and a limited number of large international players from outside Europe.

2.4. Mobile payments (m-payments)

M-payments are payments for which the payment data and the payment instruction are initiated, transmitted or confirmed via a mobile phone or device. This can apply to online or offline purchases of services, digital or physical goods.

Mobile payments can be classified into two main categories:

- 1) *Remote m-payments* mostly take place through internet/WAP⁹ or through premium SMS services which are billed to the payer through the Mobile Network Operator (MNO). Most remote m-payments through the internet are currently based on card payment schemes. Other solutions, based on credit transfers or direct debits, are technically feasible and possibly as secure, efficient and competitive, but seem to have difficulties entering the market.
- 2) *Proximity payments* generally take place directly at the point of sale. Using Near Field Communication (NFC), the leading proximity technology at this stage, payments require specifically equipped phones which can be recognised when put near a reader module at the point of sale (e.g. stores, public transport, parking spaces).

These definitions, in particular for remote m-payments, suggest that the line between e-payments and m-payments is blurred, and may become even more so in the future.

The volume of payments made through mobile phones is currently the fastest growing of all payment methods. The rapid proliferation of smart phones with the option of installing sophisticated payment applications has fuelled this development. Juniper Research forecasts that between 2010 and 2012 the value of all m-payments worldwide will increase from USD 100 billion to USD 200 billion. Other studies suggest that the value of m-payments worldwide will surpass USD 1 trillion in 2014, totalling USD 350 billion in Europe alone. It is also estimated that one out of five smart phones will be NFC-capable by the same date.

⁷ Euromonitor 2010

⁸ http://ec.europa.eu/internal_market/consultations/2010/e-commerce_en.htm

⁹ The Wireless Application Protocol (WAP) was developed by the Open Mobile Alliance (OMA), a forum for industry stakeholders to agree on common specifications for the mobile phone industry. A WAP browser is a commonly used web browser for mobile phones.

Market penetration of m-payments in the EU still has considerable unrealised potential, in comparison, for example, to the Asia/Pacific region. According to estimates by the research company Gartner, there were 7.1 million mobile payment users in Western Europe in 2010, compared to 62.8 million users in Asia/Pacific, a large share of them in Japan. One of the key reasons for the slower market take-up in Europe is the highly fragmented mobile payment market. The key market actors (mobile network operators, payment service providers, mobile phone manufacturers) have not yet agreed on a viable business model enabling inter-operable payment solutions. As a consequence, the largest and most promising global m-payment initiatives are currently launched outside Europe. Apple, Google and Visa have all announced major drives to enter the m-payment business.

Efforts for m-payment integration at European level currently take place on a self-regulatory basis. In this context, the EPC is cooperating with the global association of mobile operators (GSMA) and published a White Paper on mobile payments in July 2010¹⁰. The White Paper focuses on mobile payments through payment cards.

As with e-payments, the lack of a concrete European framework addressing main concerns, such as technical standards, security, inter-operability, and the cooperation between market participants, risks perpetuating a fragmented m-payments market in Europe. Furthermore for both e- and m-payments, (potential) market participants seem reluctant to invest as long as the legal situation regarding scope for applying collective fee arrangements, such as for payment cards, has not been settled (see 4.1. below).

3. VISION AND OBJECTIVES

According to the SEPA vision put forward by the European Commission and the ECB for electronic retail payments in euro across the EU¹¹, there should be no distinction between cross-border and domestic payments. On the basis of the standards and rulebooks provided by SEPA, this distinction should also become obsolete for non-euro payments within the EU. This would result in a true digital Single Market at EU level. Full integration would mean:

Consumers use a single bank account for all payment transactions, even if they live outside their country of origin or travel frequently throughout the EU. By accelerating innovation, payments become more convenient and adjusted to the specific circumstances of the purchasing transaction (online v offline, micro- v large-value payments, etc.).

Businesses and public administrations are able to simplify and streamline their payment processes and centralise financial operations across the EU. This has significant potential to generate savings. Furthermore, common open standards and faster settlement of payment transactions improve cash-flow.

Merchants are also able to benefit from cheap, efficient and secure electronic payment solutions. Increased competition makes alternatives to handling cash more attractive. In turn, this also makes moving into e-commerce more compelling and leads to improved customer experiences when making payments.

¹⁰ http://www.europeanpaymentscouncil.eu/knowledge_bank_detail.cfm?documents_id=402 and http://www.europeanpaymentscouncil.eu/knowledge_bank_detail.cfm?documents_id=557

¹¹ Joint statement from the European Commission and the European Central Bank, http://www.ecb.int/press/pr/date/2006/html/pr060504_1.en.html.

Payment service providers (PSPs), i.e. banks and non-bank PSPs, are able to benefit from economies of scale through standardising payment instruments, thereby achieving cost savings after the initial investment. It opens access to new markets, both for increasing the revenue base for existing payment instruments and for launching innovations on a broader scale.

Technology providers, such as software vendors, processors and IT consultants, can base their development work and solutions on pan-European instruments, facilitating innovation across the EU Member States.

For this vision to become reality for card, e- and m-payments, a number of additional issues need to be addressed, such as security, freedom of choice, unhindered technical and business innovation, standardisation of the various components and interoperability. The following chapter explores these issues in more detail.

4. THE NEED TO FOSTER AND ACCELERATE MARKET INTEGRATION

In line with the above vision, five potential ways to stimulate the further integration of cards, e- and m-payments have been identified.

4.1. Market fragmentation, market access and market entry across borders

A number of separate issues can be identified in this context. It is important to note that these issues, while historically all stemming from commercial practices for payment cards, either are applied in the same form for e- and m-payments or at least have significant spill-over effects which affect e- and m-payments indirectly, for example when an e- or m-payment is made through the use of a payment card.

4.1.1. Multilateral Inter-change Fees (MIFs)

Under the ‘classic’ business model for four-party card schemes, inter-bank fees are paid by the merchant’s PSP (the acquiring PSP) to the cardholder’s PSP (the issuing PSP) for each card transaction. Interchange fees can be agreed bilaterally, between issuing and acquiring PSPs, or multilaterally, by means of a decision binding all PSPs participating in a payment card scheme. More background on MIFs is provided in Annex 2¹².

Competition authorities and regulators have been looking at interchange fees for some time. In certain non-EU countries¹³, they have been addressed by regulation. In the EU, the European Commission and national competition authorities have adopted several decisions prohibiting specific MIF arrangements under EU competition rules¹⁴.

The usual justification for MIFs is that they provide a basis for issuing PSPs to encourage consumers to use a payment card. Charging MIFs enables issuing PSPs to give out cards for

¹² The annex includes in particular more details about the analysis conducted by DG Competition under Article 101 §3 TFUE of the appropriate level of MIF using the Merchant Indifference Test (MIT).

¹³ Australia, USA.

¹⁴ Decisions in Visa, MasterCard, Polish MasterCard Decision, Hungarian MasterCard Decision, Italian MasterCard Decision.

no or low cardholder fees and potentially include bonuses¹⁵ for consumers (e.g. air miles). This ‘balancing mechanism’ can create efficiencies through greater card use.

The existence of a wide variety of different (levels of) fees and the different timelines and scope of legal proceedings under way or completed at national and European level could lead to distortions in the Single Market. This could exacerbate market fragmentation, and means that retailers can not yet enjoy the benefits of a Single Market in payment cards.

In addition, high MIFs may act as entry barriers to low-cost card schemes and other payment systems (e.g. e-payments and m-payments).

These characteristics of MIFs generally apply with respect to four-party schemes. Three-party schemes — under which there is only one PSP servicing both payers and payees — apply an ‘implicit’ interchange fee that may raise similar issues of lack of competitive constraints.

The problems of high MIFs and a lack of transparency (see 4.2) appear to be particularly relevant to merchants accepting commercial cards — i.e. payment cards issued to companies and their employees in order to allow them to pay for work-related expenses (e.g. business trips, office supplies)¹⁶ — under which card holders may be incentivised with bonuses and other advantages to make use of this means of payment.

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? Do you think that differing terms and conditions in the card markets in different Member States reflect objective structural differences in these markets? Do you think that the application of different fees for domestic and cross-border payments could be based on objective reasons?
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?
3)	If you think that action on interchange fees is necessary, which issues should be covered and in which form? 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?

4.1.2. *Cross-border acquiring*

Cross-border acquiring refers to a situation in which a merchant uses the services of an acquiring PSP established in another country. Under this arrangement, not only do all merchants benefit from more competition on Merchant Service Charges (MCSs) but

¹⁵ Issuing banks may encourage the frequent use of the card by offering additional benefits or rewards like travel insurances, payment discounts or even by reimbursing a fraction of the price of purchased goods and services. In some cases, consumers are also charged additional fees if they do not pay with their cards frequently enough or do not spend a required amount of money within a given period.

¹⁶ Commercial cards comprise three main subcategories: (i) business cards, which are typically issued to small business customers to whom — unlike in the case of consumer cards — no additional services are provided, (ii) corporate cards, which are typically issued to medium and large business customers to whom additional information services are provided, and (iii) purchasing cards, which are used for commercial purchases and often offer VAT related invoicing services.

companies can also appoint a single acquirer for their transactions, resulting in administrative efficiencies and cross-border competition.

However, a number of problems hinder the development of cross-border acquiring. Apart from the difference in technical standards (covered in 4.3.) a series of rules and arrangements applied by international card schemes can make cross-border acquiring less attractive for merchants:

- International card schemes apply special authorisation regimes and special scheme fees/license fees to acquirers offering cross-border services.
- Cross-border acquirers must pay issuing PSPs the domestic MIF applicable in the country of the point of sale. This prevents merchants from shopping for the cheapest acquirer, although the cross-border PSP has typically not signed up to the domestic MIF concerned, which is set by the PSPs in the country concerned.
- Cross-border acquirers may also be at a disadvantage in countries where domestic PSPs have parallel networks of bilateral interchange fee agreements. This impedes the development of cross-border competition as acquirers have to pay the official full MIF amount.

Questions

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

4.1.3. Co-badging

Co-badging combines different payment brands on the same card or device. Nowadays, the most promising way for new entrant schemes to access the market could be to convince issuing PSPs to co-badge their payment cards that carry an existing (international) scheme's brand with the new entrant's brand. This would allow consumers to choose between brands when paying (provided the merchant accepts both brands), taking into consideration possible bonuses from their issuing PSP (air miles, etc.) and the possible incentives from the merchant (surcharging, rebating, steering).

It is not clear at this stage whether and if so, to what extent the rules of existing schemes allow brands that now also compete with them in national markets to figure on the same card. Schemes may also impose reporting requirements or charges on issuers and acquirers for transactions carried out with cards carrying their brand, even if their brand is not used in those transactions. The SEPA Cards Framework has a rule on the basis of which the issuing PSP, in consultation with the consumer, can pre-select the brand to be used on a co-badged card at the point of sale. Therefore, co-badging could also raise competition issues if it is used to restrict or unduly influence the choice of the brand and/or payment instrument. For the time being the

co-badging issue is limited to cards but in the future it will increasingly apply to mobile payments.

Questions

- 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?
- 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?

4.1.4. *Separating card schemes and card payment processing*

Some card schemes have subsidiaries that process the transactions and are in a position to impose the use of this subsidiary on scheme participants. This constitutes an entry barrier to processors and new card schemes which could be overcome by effectively separating card scheme management from card payment processing entities. Separation would therefore increase competition between card schemes and between processors and would allow banks to participate in only one compliant infrastructure. The SEPA Cards Framework (SCF) provides for separation between scheme management and processing but does not lay down specific arrangements.

The result of the current lack of a common interoperability framework is a segmented card processing market. The technical and business procedures for clearing and/or settling payments between banks that use different infrastructures therefore need to be improved. The development of scheme independent processing standards would also aid the implementation of separation between scheme and processing entities.

Questions

- 8) Do you think that bundling scheme and processing entities is problematic, and if so why? What is the magnitude of the problem?
- 9) Should any action be taken on this? Are you in favour of legal separation (i.e. operational separation, although ownership would remain with the same holding company) or 'full ownership unbundling'?

4.1.5. *Access to settlement systems*

In contrast to banks, payment institutions as defined by Directive 2007/64/EC on payment services in the internal market (PSD)¹⁷ and e-money institutions do not have direct access to clearing and settlement systems. Under Article 2(b) of the Settlement Finality Directive (SFD), only credit institutions and investment firms may participate in designated settlement systems. As a result, other PSPs claim to be unable to compete with banks on an equal basis as they are obliged to use the services of a bank to settle payments.

Questions

¹⁷ Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, OJ L 319, 5.12.2007, p. 1.

- 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?
- 11) Should a common cards-processing framework laying down the rules for SEPA card processing (i.e. authorisation, clearing and settlement) be set up? Should it lay out terms and fees for access to card processing infrastructures under transparent and non-discriminatory criteria? Should it tackle the participation of Payment Institutions and E-money Institutions in designated settlement systems? Should the SFD and/or the PSD be amended accordingly?

4.1.6. *Compliance with the SEPA Cards Framework (SCF)*

The SCF developed by the EPC was not fully implemented on 1 January 2011, as originally scheduled, as many of its underlying elements are not actively applied. The SCF's potential impact is not limited to payments in euro. Whilst the SCF covers general purpose cards used to make payments and cash withdrawals in euro throughout the SEPA area, PSPs and schemes operating in non-euro SEPA countries have an incentive to be SCF compliant in order to be able to handle euro transactions. Under the SCF, non SEPA-compliant incumbent payment schemes for euro transactions will in principle be phased out of the market. This implies that non-compliant schemes will disappear after full SCF implementation. The SCF defines obligations for cards to be SEPA compliant: card payments must be guaranteed by the issuing PSP and the EMV (Chip and PIN) standards implemented in full. These technical requirements also impact/limit the business models to be applied in the European Union with the advantage that for the systems that are allowed, a single integrated European market is created.

Questions

- 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? 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?

4.1.7. *Information on the availability of funds*

In many business models for payment services, prior information on the availability of funds — necessary for authorisation and/or payment guarantee of a specific payment transaction — is a key element. As keepers of the bank account, banks have a 'gateway function' that effectively determines the viability of many business models. Even if for certain new payment services consumers would agree that information on the availability of funds on their bank account is given to payment service providers of their choice, banks may refuse to give other payment service providers access to this information. Given the importance of secure payments and confidence in the payment system in general and the fact that banks are subject to supervision, such refusals may be justified in some cases. However, it creates a conflict of interest for banks, which may have an incentive to refuse to cooperate, despite the willingness of their customers. This could unduly hinder the emergence of safe and efficient alternative payment solutions, even if they are subject to prudential requirements.

Questions

- 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? Should action by public authorities be considered, and if so, what aspects should it cover and what form should it take?

4.1.8. *Dependence on payment card transactions*

Worldwide, card use continues to grow. Global transaction volumes rose by 9.7 % between 2009 and 2010. Cards remain the preferred non-cash payment instrument, with a market share of more than 40 % in most markets¹⁸. Given the increasing use of payment cards, including in the e-commerce world, it is likely that there will be a growing number of companies whose activities are effectively dependent on being able to accept payments by card. In that case, the question arises whether it is in the public interest to define objective rules describing the circumstances and procedures under which card payment schemes may unilaterally refuse acceptance.

Questions

- 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? 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?

4.2. Transparent and cost-effective pricing of payment services for consumers, retailers and other businesses

The real cost of these payment services is often opaque, both for consumers and for merchants, which leads to higher payment costs in the EU economy. The lack of transparency mostly applies to the cards market, but links between cards, e- and m-payments have implications for all these payment methods. Furthermore, increased transparency in pricing should be seen as a way to reduce the costs of payment transactions for all parties involved and ultimately optimise costs across the EU for the benefit of payment service users. Another issue related to the pricing of payment services concerns micro-payments, i.e. low-value payments, which by their nature are often made by card, internet or mobile payments. Payment fees are often perceived as excessive, both by consumers and merchants because they usually represent a significantly higher share of the transaction value than is the case for large-value payments. This situation may have contributed to the development of alternative digital currencies.

4.2.1. *Consumer — merchant relationship: transparency*

Consumers are seldom aware of the full cost of using specific payment instruments, i.e. the costs that are not only imposed on them directly, but also on the payees (merchants). If the cost of using different payment instruments (e.g. different card brands, cash, cheques) is the same for consumers, they tend to believe that their choice of payment method is irrelevant to the merchant. Consequently, consumers base their selection of a payment instrument either on convenience or on potential benefits they could otherwise obtain by using a specific method of payment.

However, the payment instrument chosen by the consumer may not be optimal in terms of the full cost to the economy. Merchants typically include their transaction costs in the prices of

¹⁸ World Payments Report 2011, p. 10, CapGemini, RBS and EFMA.

goods and services they offer. The end result is that all consumers pay more for their purchases in order to cover the real cost of more expensive payment methods used by some.

Making the total cost of using different payment instruments more transparent could therefore drive down total payment costs in the economy. This could be achieved by providing information to the consumer on how much the use and/or handling of a particular payment instrument costs the merchant. In this context, it would be important to assess the likely impact of greater transparency on consumer behaviour, focusing on better understanding consumers' reactions and their needs.

Questions

- 15) Should merchants inform consumers about the fees they pay for the use of various payment instruments? Should payment service providers be obliged to inform consumers of the Merchant Service Charge (MSC) charged / the MIF income received from customer transactions? Is this information relevant for consumers and does it influence their payment choices?

4.2.2. *Consumer — merchant relationship: rebates, surcharging and other steering practices*

Another option to increase the transparency of pricing in the consumer-merchant relations and to stimulate the use of the most efficient payment instruments could be the systematic and comprehensive use of rebates, surcharging and other steering practices (e.g. selective acceptance of certain cards only above a certain amount, explicit indication of the preferred means of payment) by the merchant. This could create incentives to use the most efficient payment means. In accordance with the 'user pays' principle, costs should in principle be borne by those who use a specific service and not distributed between a wider group.

It is also justified to consider the potential abuse which could arise from surcharging, such as the lack of transparency and the lack of practical alternative payment instruments to avoid paying a surcharge¹⁹. This has been a particular issue in certain economic sectors (e.g. the airline industry). Surcharging should not be used as an additional revenue source by merchants but should be limited to the real cost of using a payment instrument, as established in Article 19 of the Consumer Rights Directive²⁰.

Article 52(3) of the PSD explicitly empowers merchants to use surcharging and rebating for the use of a given payment instrument²¹. However, Member States may still prohibit or limit surcharging (but not rebating) under certain conditions. Member States have chosen to apply this provision in starkly different ways in their territories. Differing national choices significantly increase the complexity of the Single Market and generate confusion for both consumers and merchants, in particular in cross-border transactions.

Questions

¹⁹ These reduce the extent to which consumers shop around and compare full price offers, resulting in consumers detriment, according to the UK Office of Fair Trading (OFT), 'Payment surcharges — Response to the Which? super-complaint', June 2011.

²⁰ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, OJ L304, 22.11.2011, p. 64

²¹ However, the PSD does not apply to payments in cash or by cheque.

- 16) Is there a need to further harmonise rebates, surcharges and other steering practices across the European Union for card, internet and m-payments? 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?

4.2.3. Merchant — payment service provider relationship

Transparency in pricing the payment instruments and the real costs of payment transactions could also be improved by addressing the merchant–payment service provider relationship.

Some rules applied by card schemes currently make it difficult for merchants to influence consumer decisions on the choice of a payment instrument and limit their own ability to accept only selected cards. This facilitates the application of high MIFs by PSPs, hence potentially increasing the cost of card payments and stifling competition. The rules in question are:

- No Discrimination Rule (NDR), under which retailers are prohibited from directing their customers towards the use of the payment instrument they prefer through surcharging, offering rebates or other forms of steering.
- Honour All Cards (HAC) Rule, under which merchants are obliged to accept all cards within the same brand, even if the fees related to them are not the same²².
- Blending practices, applied by card acquirers. As a result of blending only an average fee for card payments is charged to merchants by their acquirers and the merchant is not informed about the MSCs applied for the various individual categories of cards.

Changes in the card scheme rules and in practices of the acquirers could give merchants more power when negotiating with acquiring PSPs, in particular at MSC level, whilst at the same time improving the ability of merchants to influence consumers' decisions. It could drive down the cost of card payments in the economy and increase the chances of new, competing schemes getting accepted by merchants.

Questions

- 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

²² In practice the HACR can be seen as two separate rules: honour all issuers (e.g. if a merchant accepts Visa cards issued by local banks it should also accept foreign cards); and honour all products (e.g. if a merchant accepts consumer credit cards it must also accept more expensive commercial cards). In general we do not see a problem with the honour all issuers rule, but are concerned by the competitive impact of honour all products.

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? Should three-party schemes be covered? Should a distinction be drawn between consumer and commercial cards? Are there specific requirements and implications for micro-payments?

4.3. Standardisation

European payment users (companies, consumers, merchants) will fully benefit from competition, freedom of choice and more efficient payment operations if cross-border interoperability is achieved. This applies to all electronic payments and involves multiple actors in the payment process, depending on the payment method. However, standardisation of the various components (e.g. protocols, interfaces, applications, services) needs to be carried out thoroughly²³ in order to minimise the risk of foreclosure of potential competitors or innovation.

Card payments

As described above, a card payment involves data exchange between the acquiring and issuing PSP (A2I domain) but also between the merchant (potentially by means of a physical payment terminal) and the acquiring PSP (T2A domain).

In the T2A domain, there is a lack of common standards across borders and in many cases even domestically. There are a few private initiatives setting technical specifications, such as the EPAS (Electronic Protocol Application Software) and the C-TAP (Common Terminal Acquirer Protocol). However, these projects often develop in isolation and in different directions, driven by diverging commercial interests. The fragmented standardisation work has a threefold effect. First, the lack of common standards limits the range of potential service providers to domestic acquiring PSPs and therefore hampers the achievement of a competitive Single Market for payment services. Second, merchants have to maintain different systems and protocols for managing data exchange in the acquiring process — at least one for each country they operate in, but in many cases even more, thereby reducing the opportunities to centralise operations and limiting efficiency gains. Third, the lack of common standards in the T2A domain often prevents debit cards from being accepted abroad — a consumer experience which is not in line with the Single Market and a common currency for cash payments in the Member States of the euro area.

In the A2I domain, the situation is similarly unsatisfactory. Inter-bank payment processing (authorisation, clearing and settling of transactions) is currently based on different rules of individual card schemes. Full separation of scheme and processing (see 4.1.4) will require scheme interoperability standards for A2I processing. Industry-driven standardisation efforts in A2I area are currently limited and have not yet achieved much traction across all market actors.

A third issue concerns certification. For each country and card scheme, there are different criteria and evaluation procedures for the mandatory certification of chip cards, payment

²³ Part 7. Standardisation Agreements, *Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal cooperation agreements*, OJ C 11/1, 14.1.2011.

terminals etc. These certification procedures are crucial to ensure payment security but because they are not harmonised across Europe they result in excessive cost redundancies for card and terminal manufacturers. The market-driven OSeC (Open Standards for Security and Certification) and CAS (Common Approval Scheme) initiatives were launched to address this issue. While initial progress has been promising, the initiatives have yet to yield tangible results in the marketplace.

The EPC has set up an overarching Cards Stakeholder Group (CSG) with representatives from key sectors, i.e. merchants, card payment processors, card schemes, PSPs and technical providers. The CSG is developing a SEPA Cards standardisation volume, a fifth version of which was published in December 2010. The aim of the volume is harmonisation of SEPA standards so that ‘any SEPA card could technically work at any SEPA terminal’ and to promote harmonised certification procedures and standards. However, at this stage it has produced limited concrete results in terms of creating a genuine integrated market for cards.

E- and m-payments

In October 2010, the EPC and the global association of mobile operators GSMA published a paper outlining the roles and responsibilities of mobile operators and banks in the management of contact-less applications²⁴. The banking/card sector and mobile network operators have thus initiated discussions on cooperation and standardisation. Nevertheless, tangible results have yet to be achieved and several important gaps still need to be filled to achieve a stable ecosystem built on coherent m-payment business models that work across borders.

Standardisation work on m-payments should ensure full interoperability between m-payment solutions and favour open standards to enable consumer mobility. In addition, given the specificity of m-payments, standardisation should address the issue of portability of m-payment applications (i.e. how payment applications follow consumers when they change mobile network operators).

The lack of common standards seems to be less of an issue for e-payments. This is partly due to the use of the internet as a common platform with defined communication protocols. Even if initiated in the internet, e-payments are then often processed as regular card payments or through online-banking platforms. They are therefore negatively affected more by a lack of inter-operability between actors in the payment process chain (see 4.4.) than by a lack of standards. Finally, standardisation should also ensure that e- and m-payment solutions offered to consumers are easy to access and user-friendly.

Questions

- 18) Do you agree that the use of common standards for card payments would be beneficial? 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?
- 19) Are the current governance arrangements sufficient to coordinate, drive and ensure the adoption and implementation of common standards for card payments within

²⁴ http://www.europeanpaymentscouncil.eu/knowledge_bank_detail.cfm?documents_id=423

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

- 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? 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?
- 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? If so, which?
- 22) Should European standardisation bodies, such as CEN or ETSI, play a more active role in standardising e- or m-payments? In which area do you see the greatest potential for their involvement and what are the potential deliverables?

4.4. Interoperability between service providers

Cooperation is a key requirement in a network industry such as payments, as any payment requires an agreement between the payer's payment service provider and the payee's payment service provider. To ensure that any payment can reach any beneficiary without detriment to the actors and intermediaries involved, a higher level of coordination is desirable in the form of full interoperability.

In line with the Commission's proposal for credit transfers and direct debits, the principle of interoperability could be applied in the cards market, in addition to addressing the obstacles mentioned above, particularly for the choice of the acquirer and the commercial rules.

4.4.1. Interoperability in the domain of m-payments

The mobile payment market in Europe is still in its infancy. One of the main barriers to widespread take-up of m-payments seems to be a stalemate between Mobile Network Operators (MNOs), traditional PSPs (banks) and other players, such as manufacturers or application developers. MNOs seem to be seeking to retain control of the business, at least in their role of security manager for the service. At the same time, e-payment players are seeking to extend their reach to the mobile environment (for both remote and proximity payments).

It seems likely that private players controlling the standards and, hence interoperability, will dominate the whole payment chain: the device itself, the application platform and security management. In this situation, there is a serious risk of fragmentation through proprietary solutions. In addition, the importance of other sectors potentially involved in interoperability without playing a leading role in the standardisation strategy should not be overlooked, such as public transport (payments for ticketing) or health (health insurance card-based payments) sectors.

4.4.2. Interoperability in the domain of e-payments

The EPC has decided against setting up its own online banking scheme, proposing instead to formulate an interoperability framework that allows competition between various schemes

and enables individual banks to decide which scheme to join. For the time being, no non-bank service providers have been allowed to join this work²⁵. Three bank-based schemes²⁶ have undertaken a ‘proof of concept’ exercise to test interoperability between schemes. It is too soon to ascertain whether this project could be successfully scaled up to an EU wide scheme.

At the same time, EBA Clearing, a clearing and settlement operator with close to 70 shareholder banks, has announced an online-banking based e-payment initiative. A pilot scheme is expected to be launched in May 2012.

4.4.3. Interoperability and competition

Technical interoperability should be distinguished from commercial interoperability, i.e. the ability for merchants to choose acquirers and for customers to choose issuers irrespective of their location. It is also important to address the challenges of interoperability in three-party schemes as compared to four-party schemes.

Questions

- 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? 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?
- 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?

4.5. Payments security

The security of retail payments is a crucial prerequisite for payment users and merchants alike. Consumers are justifiably alerted by frequent press coverage of fraud and data abuse incidents and are therefore particularly sensitive to security issues for card and internet payments. The public consultation on the future of e-commerce in the internal market confirmed this and identified payments security as one of the key hurdles preventing the widespread adoption of electronic commerce.

Security requirements most importantly concern the prevention of fraud. The continuous replacement of signature-based cards (equipped with a magnetic stripe for card reading) by ‘Chip and PIN’ (EMV-compliant) cards has helped reduce fraud significantly at the point-of-sale at European level. At the end of 2010, around 90 % of all point-of-sale card terminals and 80 % of all payment cards in the EU were EMV-compliant. While this helped to drive down card fraud in physical payment transactions, fraudulent activity is now increasingly moving to remote card transactions, in particular to payments over the internet. Remote card transactions represent only a minor share of all card transactions but already account for the majority of all

²⁵ The European Commission has opened a case regarding standardisation in order ensure interoperability in the field of ePayments:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39876

²⁶ iDEAL (Dutch), EPS (Austrian) and Giro pay (German).

fraud cases. Non-card e-payments are also vulnerable to fraud. Potential remedies for online banking or other internet payment transactions include what is known as two-factor authentication, i.e. the use of a PIN in combination with a one-time transaction code received through an SMS or token device, for example. However, the trade-off between security, speed and ease of use should be taken into account.

A second important issue in this field is data protection. All payment means referred to in this document imply the processing of personal data and the use of electronic communication networks. Sensitive customer information should stay within a secure payment infrastructure, both in terms of processing and storing data. Directives 95/46/EC²⁷ and 2002/58/EC²⁸ lay down the legal framework applicable to the processing of personal data in the EU and govern processing activities carried out in this context by different actors involved in a payment operation. This is a key responsibility for all market actors involved in the payment transaction. It is crucial that authentication mechanisms for payment transactions are designed from the outset to include the necessary measures to ensure compliance with data protection requirements. The number of parties having access to authentication data during or after a payment transaction should be restricted to those who are strictly necessary to perform the transaction.

Furthermore, an integrated market for secure internet payments could potentially facilitate the fight against websites offering illegal content or selling counterfeited products. Subject to appropriate pre-established procedures, PSPs could be required to refuse executing financial transactions on websites which have previously been identified as illegal.

Questions

- 25) Do you think that physical transactions, including those with EMV-compliant cards and proximity m-payments, are sufficiently secure? If not, what are the security gaps and how could they be addressed?
- 26) Are additional security requirements (e.g. two-factor authentication or the use of secure payment protocols) required for remote payments (with cards, e-payments or m-payments)? If so, what specific approaches/technologies are most effective?
- 27) Should payment security be underpinned by a regulatory framework, potentially in connection with other digital authentication initiatives? Which categories of market actors should be subject to such a framework?
- 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??

²⁷ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31.

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

5. STRATEGY IMPLEMENTATION/GOVERNANCE

5.1. Governance of SEPA

Until now, SEPA has been predominantly run as a self-regulatory project, set up and managed by the European banking industry through the EPC, with the strong support of the ECB and the Commission. The EPC plenary is responsible for managing the SEPA schemes and its frameworks, and for introducing new rules or changes to these schemes and frameworks. As regards EPC membership, in addition to banks, currently one seat is given to payment institutions but other payment service providers, processors, supply-side market actors (e.g. software vendors, terminal manufacturers) and users are not represented.

To improve stakeholder involvement in the governance of SEPA at EU level, the Commission and the ECB jointly set up a high-level governing body, the ‘SEPA Council’, in March 2010. It brings together high-level representatives from the demand and the supply side of the payments market. Its objective is to promote the achievement of an integrated euro retail payments market and to build consensus on the next steps towards completing SEPA. It has no legislative powers and cannot impose binding provisions.

With the adoption of the Regulation establishing technical requirements for credit transfers and direct debits in euros a more active involvement of the EU institutions in the SEPA governance may be useful. In this context, a more prominent role for the legislative and regulatory oversight through, for example, the ECB, the Commission or the European Banking Authority (EBA) could be considered.

Questions

- 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? 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?

5.2. Governance in the field of cards, m-payments and e-payments

To improve stakeholder involvement, the EPC has set up the Customer Stakeholders Forum (dealing with the SEPA Credit Transfer and the SEPA Direct Debit) and the Cards Stakeholders Group (dealing with card payments). Both of these bodies are co-chaired by the EPC and representatives of end-users. On the self regulatory side, although it merits further clarification, the SEPA Cards Framework (SCF) adopted by the EPC — with the status of a voluntary code of conduct — defines the principles and conditions banks, processors and card schemes must follow to be SCF or SEPA compliant. However, and in spite of a strong incentive for operators willing to accept payments in euro to move to SEPA compliance, the SCF does not have the unanimous support of all stakeholders and there is no formal mechanism to interpret, monitor and enforce SEPA compliance for card schemes nor to settle any potential disputes.

In areas such as creating a proper framework for e- and m-payments, integration efforts have been slow to produce tangible results, thereby delaying interoperability, innovation, increased choice and scale effects. Deadlocks and uncertainties may lead to market participants taking a ‘wait and see’ attitude. Given the current lack of commitment to such an important initiative

for the European economy as a whole, achieving an integrated market requires taking a comprehensive approach involving regulation, self-regulation and competition law compliance and enforcement.

Questions

- 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? If not, how could this be addressed?
- 31) Should there be a role for public authorities, and if so what? 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?

6. GENERAL REMARKS

Questions

- 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?

7. NEXT STEPS

All interested parties are invited to submit their views in response to the above questions. Contributions should be sent to the following address to reach the Commission **by 11 April 2012 at the latest: markt-sepa@ec.europa.eu**.

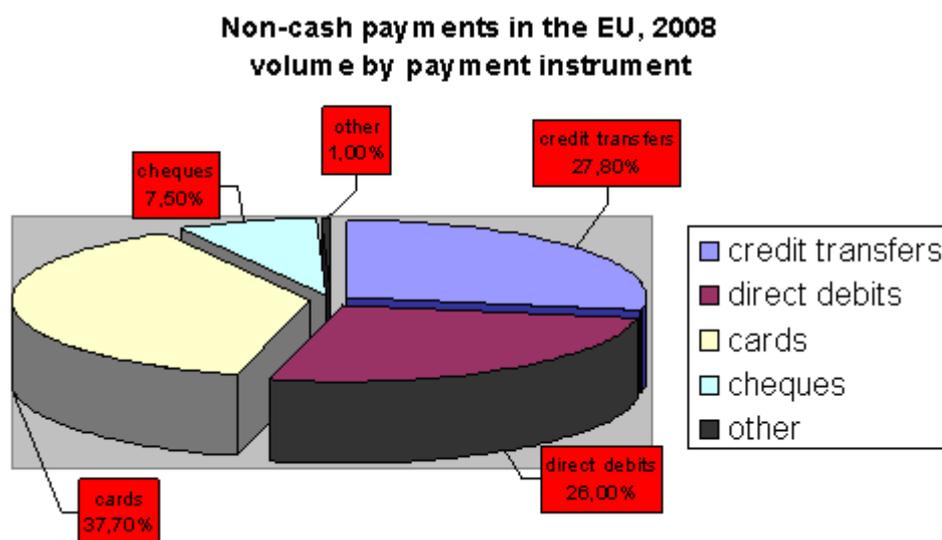
Contributions do not need to cover all questions raised in this Green Paper. Accordingly, please indicate clearly the questions to which your contribution relates. If possible, please give specific arguments for or against the options and approaches presented in the paper.

As a follow-up to this Green Paper and on the basis of the responses received, the Commission will announce the next steps by the second quarter of 2012. Proposals, if applicable, will be adopted by the fourth quarter of 2012 or the first quarter of 2013. Any future legislative or non-legislative proposal will be accompanied by an extensive impact assessment.

Contributions will be published on the internet. It is important to read the specific privacy statement accompanying this Green Paper for information on how your personal data and contribution will be dealt with.

Annex 1: Use of different payment instruments

Graph 1: Non-cash payments in the EU — volume by payment instrument



Source: ECB, Comparative tables, Retail transactions

Table 1: Card payments in the EU (2009)

Member State	Number of payment cards issued per capita	Number of card transactions per capita ²⁹	Average value of card transaction per card (EUR)	Number of POS transactions per card ³⁰	Annual value of POS transactions per card (EUR)
Belgium	1.78	92	55	52	2 843
Germany	1.54	30	64	20	1 247
Estonia	1.37	116	17	85	1 405
Ireland	1.22	72	73	56	4 237
Greece	1.35	8	101	5	487
Spain	1.62	47	46	27	1 234
France	1.35	107	49	80	3 905
Italy	1.15	24	80	22	1 788
Cyprus	1.54	40	87	25	2 072
Luxembourg	2.00	109	76	57	4 166
Malta	1.55	27	63	18	1 108
Netherlands	1.83	125	42	68	2 902
Austria	1.24	46	63	28	1 395
Portugal	1.89	100	39	53	2 060

²⁹ Excludes e-money card transactions.

³⁰ Point-of-sale transactions; includes transactions at terminals located in the Member State and outside it.

Slovenia	1.66	54	37	32	1 187
Slovakia	0.94	21	57	15	596
Finland	1.74	172	34	100	3 402
Euro area sub-total	1.45	58	52	40	2 066
Bulgaria	1.01	2	78	2	138
Czech Republic	0.89	17	38	21	813
Denmark	1.25	180	47	129	5 875
Latvia	1.10	43	20	37	698
Lithuania	1.29	28	18	22	384
Hungary	0.88	18	27	21	1 028
Poland	0.87	18	25	21	539
Romania	0.60	4	39	7	251
Sweden	1.85	182	40	89	2 735
United Kingdom	2.33	132	58	56	3 294
Total EU27	1.45	63	52	43	2 194

Source: ECB Payment Statistics, February 2011

Annex 2: Further background on MIFs

A MIF can be a percentage, a flat fee or a combined fee (percentage and flat fee). A wide variety of MIFs are applied in the EU. Not all these fees are public. However, as a result of informal and formal settlements with the European Commission MasterCard and Visa Europe currently publish the MIFs they have established (in a number of countries MIFs are established by local banking communities in the framework of the MasterCard and Visa systems, under which fees are generally not made public). For MasterCard and Visa Europe, depending on the category of cards and the country, MIFs vary from zero (Maestro Switzerland) to 1.62 % (MasterCard debit cards Poland) and 1.90 % (Visa debit cards and commercial cards in Poland).

Under its informal settlement with the Commission MasterCard has reduced its MIFs for cross-border consumer debit and credit cards to 0.20 % and 0.30 % respectively. Visa Europe has reduced its MIFs for cross border consumer debit card transactions and transactions with these cards in nine EU Member States to 0.20 %. The benchmark applied in these settlements as the so-called ‘merchant indifference test’. Under this test the MIF is set at the level where payment with a card does not result in higher costs to retailers than a payment with cash, making the retailer indifferent between the two means of payment. This level can therefore be seen as ensuring that merchants and their subsequent customers receive some of the benefit of the efficiencies allegedly generated by MIFs. In some instances competition authorities have accepted formal or informal settlements on specific levels of inter-bank fees and other conditions³¹.

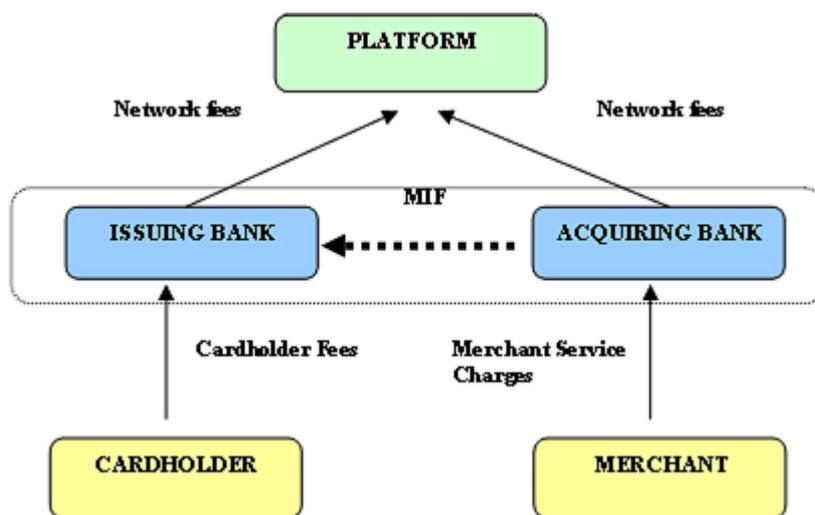
Four-party schemes and three-party schemes

MIFs are applicable to point-of-sale transactions with payment cards i.e. transactions made by the cardholder at the merchants’ business. In a four-party scheme, the issuing PSP enters into a contract with the cardholder (payer) and the merchant contracts an acquiring PSP (or payee PSP) to acquire the card payments made at his terminal. For its services, the acquiring PSP charges the merchant what is known as merchant service charges (MSC).

Interchange fees for such schemes are fees charged by the issuing PSP on transactions carried out with cards it has issued. The cost of these fees is borne by the acquiring PSPs and then passed on to merchants through inflated MSCs. The interchange fee therefore effectively determines to a large extent the price charged by PSPs to merchants for card acceptance. Hence, MIFs have an impact on price competition between acquiring PSPs to the detriment of merchants and subsequent purchasers³², particularly in combination with other business practices outlined in 4.1 and 4.2 of this paper.

³¹ Visa, MasterCard, Pagobancomat, Groupement.

³² See the Commission's Decisions addressed to MasterCard and Visa — Commission Decision of 19.12.2007 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement — Case COMP/34.579 — MasterCard, Case COMP/36.518 — EuroCommerce, Case COMP/38.580 — Commercial Cards; and Commission Decision of 8.12.2010 relating to proceedings under Article 101 of the TFEU and Article 53 of the EEA Agreement — Case COMP/39.398 — Visa MIF.



Three-party card schemes, sometimes referred to as ‘proprietary’ schemes, differ from four-party schemes as the transaction only involves the payer/cardholder, the payee/merchant and the scheme, whereas in a four-party scheme, the transaction involves the payer/cardholder, the issuing PSP (or payer PSP), the payee/merchant and its PSP (the acquiring PSP or payee PSP). This means that the schemes’ role is mostly limited to providing the infrastructure in the latter case.

In a three-party scheme, only one PSP is involved, being at the same time the issuer and the acquirer. However, when licences are issued by the scheme to several PSPs to issue cards and to acquire transactions, it is not a ‘pure’ three-party scheme but resembles a four-party system.

‘Pure’ three-party schemes do not have a MIF explicitly agreed between PSPs. There are only the fees paid by the cardholder (annual fees, fees per transaction, etc.) and Merchant Services Charges paid by the retailer. Nevertheless, the scheme may use the collected fee to subsidise one ‘leg’ or the other (i.e. the merchant or the cardholder), resulting in an implicit MIF.