



*European Economic and Social Committee*

**INT/634**  
**Payments by card, internet**  
**and mobile phone**

Brussels, 19 September 2012

**OPINION**

of the  
European Economic and Social Committee  
on the

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

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Rapporteur: **Mr Kropas**

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On 11 January 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Green Paper - Towards an integrated European market for card, internet and mobile payments*

COM(2011) 941 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 19 September), the European Economic and Social Committee adopted the following opinion by 157 votes to one with five abstentions.

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## **1. Conclusions and recommendations**

- 1.1 The European Economic and Social Committee (EESC) welcomes the Commission initiative to promote a secure, transparent and innovative payments environment throughout the EU. More efficient, modern and safer payment instruments are a precondition for expanding further benefits of the Single Market as well as strengthening the global competitiveness of the European economy.
- 1.2 The EESC appreciates the broad nature of the dialogue proposed by the Commission, which indeed encompasses main issues of the present and foreseeable landscape of payments in the EU. However, in order to have the full picture cash payments deserve further attention. Although gradually decreasing, cash remains the predominant means of payment in certain markets. Increasing national evidence shows that cash in principle is less efficient and significant resources could be saved if consumers switched to electronic payments. Certain Member States have made real progress in moving towards a cashless society. Nonetheless, the EESC believes that the true cost of cash is still not known to general public. Moreover, cash is considered to be a facilitator of the shadow economy. Therefore payment methods that help reduce shadow economy are less expensive and more secure and should be promoted by all stakeholders involved. The many benefits for all stakeholders concerned, but on the other hand as well the need for a reasonable cost for SME offering these payment methods to their customers should be considered in this context. Additional initiatives are needed in the Member States with the clear support of the Commission.

- 1.3 Card payments are the most popular non-cash payment instrument in the EU and worldwide. A growing consensus in the literature on economics considers non-cash payments to be more transparent in fiscal and economic terms and also cheaper for society as a whole, easy to use, safe and innovative. The EESC consequently supports the Commission's proposal to use such payments to reap the benefits of greater market integration. However, the Single Market opportunities are not yet fully exploited due to historical barriers and lack of standardisation and interoperability and to the discrepancies and shortcomings in the use of public information, which can be remedied through greater use in payments by payment cards, the Internet and mobile telephones. As a consequence, competition, innovation and efficiency have unrealised potential. The EESC calls for market initiatives to propose enforceable solutions as soon as possible, especially those at the same time favouring financial and digital inclusion.
- 1.4 The current legal uncertainty regarding interchange fee based business models hampers card, e- and mobile payments' growth and cash displacement. Clarity is of utmost importance for investment and innovations in payment systems. The EESC urges the Commission to stabilise the business environment for all operators. In line with SEPA objectives there should not be any differentiation of fees and other requirements both for domestic and cross-border transactions.
- 1.5 The access of information on the availability of funds on bank accounts requires careful consideration of many aspects including security, data protection, consumer rights, competition and compensation to account issuers. The EESC notes that entities seeking access should be regulated and supervised commensurate with their risk profile. The European legal framework should clearly reflect the obligations and responsibilities of the operators involved.
- 1.6 In many markets customers may not be ready to accept surcharging and therefore could shift to cash payments based on the impression that cash is free of charge. Even though consumers would be protected from abusive surcharging by the Consumers Rights Directive as from 13 June 2014, it is not straightforward how this protection will be ensured in a highly agile online environment.
- 1.7 E-payments are appreciated by customers on domestic markets. However, Pan-European solutions, based on internet banking, are pending. This therefore complicates the up-rise of e-commerce. The EESC calls on the operators of such systems to work on interoperability issues in an open and transparent manner and address missing issues in e-commerce as soon as possible.
- 1.8 The EESC calls on the Commission to ensure that m-payments from the early phase of their development will respect the principles of open access to platforms, portability of applications, security as well as avoidance of duplicate costs for operators wishing to accept these payments.

1.9 The EESC acknowledges the progress reached by market participants in curbing fraud at physical terminals. Currently, on-line fraud poses the biggest threat. Additional security measures should be implemented, but not at the expense of customers' convenience. If proposed by public authorities, security measures should be technologically neutral to the extent possible.

1.10 The EESC welcomes the on-going efforts to strengthen the current Single European Payments Area (SEPA) governance and supports intentions to centralise the "ownership" of SEPA, for instance under the umbrella of the SEPA Council. However, the EESC urges the Commission and the European Central Bank to work on details as soon as possible as the current de facto vacuum hinders implementation.

## **2. Background of the opinion**

2.1 Completion of SEPA is one of the Commissions priorities for achieving the Single Market. The achievements of standardisation and interoperability supported by a harmonised legal framework are already available to operators in the form of SEPA credit transfers and SEPA direct debits, which by 1 February 2014 will replace the legacy schemes in the Euro area.

2.2 The scope of SEPA, however, is wider and encompasses other pillars. One of them is devoted to card payments, the most important payment instrument in the European Union as well as worldwide. E-payments, i.e. payments made over internet for purchases, are another such pillar. Nowadays these payments represent a tiny fraction of all non-cash payments, but double-digit growth is expected. The European Payments Council (EPC), which is the coordination and decision-making body of the European banking industry with regard to payments, extended their cooperation activities towards e-payments and developed the SEPA e-Payment Framework. Recently the EPC became the subject of a request for information by the Commission's DG Competition.

2.3 M-payments are the most recent pillar. The EPC in cooperation with other operators took coordinated actions regarding m-payments by preparing technical documents on interoperability guidelines and several white papers. M-payments are still at an early stage of development, but expectations are very high regarding their future status. Whilst card payments, e- and m-payments are different in their maturity, scale and business models, there is a general understanding shared by the European institutions and market operators that additional progress is required in terms of integration, transparency and competitiveness. There is a risk that detriments witnessed in existing business models may be replicated in forthcoming m-payments environment.

2.4 Every citizen, business or public administrator is engaged in payments activities realised either through traditional means of payment (e.g. cash) or modern payment services (e.g.

e-payments). According to statistics from the European Central Bank<sup>1</sup>, the total number of non-cash payments in the EU increased by 4.4% to 86.4 billion in 2010 compared with the previous year, of which card payments accounted for the largest share (39% or 33.9 billion). The value of card payments reached EUR 1.8 trillion, rising by 6.7% on a yearly basis, which is more than three times the 1.8% growth in the euro area's real GDP. Whilst there are significant differences in terms of card usage from one country to another, the general trend is that card payments are one of the most dynamic non-cash payment instruments.

- 2.5 The fact-finding survey carried out by the European System of Central Banks<sup>2</sup> showed that inter-change fees are not set and applied in a harmonised way throughout the European Union. The choice, structure, and level of inter-change fees differ in many ways and depend on a number of options and dimensions. The interchange fee is the main component of merchant fees. The Commission as well as national competition authorities assessed the competition aspects of interchange fees and took a number of decisions, some of which were related to cross-border activity, while others were restricted to the national level.
- 2.6 With regard to fee transparency, regrettably, no official surveys have been carried out and no comprehensive national or country-comparative statistics have been published on the costs paid by consumers, such as various fees and charges directly related to different means of payments, despite the fact that this information is available for national supervisors, most of whom do not make any of it available.
- 2.7 Despite on-going private initiatives towards standardisation, fragmentation still persists in certain transaction domains: between card acquiring and card issuing payment service providers, between card and terminal as well as between terminal and card acquiring payment service providers. However, often driven by diverging commercial interests or without clear implementation time-tables at this stage, they have yielded limited concrete results.
- 2.8 The significant investments and efforts by all operators in order to migrate from magnetic stripe to EMV-chip technology had a positive impact on driving down card fraud in face-to-face environment. However, the recent trend shows that remote card transactions, although having a minor share of all card transactions, already poses the biggest fraud threat. This issue has drawn the attention of supervisors and overseers who in 2011, under the umbrella of the European Central Bank, joined forces within the "SecuRe Pay Forum" in order to enhance the security level and public trust in electronic payment services and instruments. In 2012 the forum will finalise a set of technology-neutral recommendations for the security of internet payments.
- 2.9 The Commission's Green Paper deals with a whole set of payment issues, which if successfully addressed would provide the basis for more integrated and secure payment

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<sup>1</sup> <http://www.ecb.int/press/pr/date/2011/html/pr110912.en.html>.

<sup>2</sup> <http://www.ecb.int/pub/pdf/scpops/ecbocp131.pdf?4cce20956bed7b7e5f454a4ea77f7c9b>.

services provided either in traditional bricks-and-mortar shops or in fast developing electronic environment. With more competition, more choice and transparency for consumers, more innovation and more payment security and customer trust Europe has an opportunity to be at the cutting edge of what "making a payment" could mean in the 21st century.

- 2.10 The Commission describes the vision of integrated market, identifies the gaps between the current situation and the vision as well as the barriers causing these gaps. The Commission defines five broad measures aimed at accelerating market integration and reflects about how implementation should be governed. The first set is the largest in terms of questions and covers market fragmentation, access and cross-borders issues. The remaining ones cover respectively transparent and cost-effective pricing, standardisation, interoperability and security issues. The governance guidance is to apply to existing SEPA schemes (SCT, SDD) as well as cards, e-payments and m-payments.

### 3. **Comments and observations**

- 3.1 The Community wide attitude regarding long-standing and future-oriented payments' issues - apart from SEPA credit transfers and SEPA direct debits - is still pending and is overarching for all operators in the Single Market. The EESC welcomes the Commission's Green Paper and expects proportionate follow-up actions in order to improve current shortfalls. The EESC calls that consumer interests on the availability of safe, efficient, convenient and rapid payments should be put at the centre of every payment transaction.
- 3.2 The Green Paper concentrates on electronic payments omitting, however, the still dominant role of cash which represents 80% of payment transactions in Europe. The increased transparency of costs is equally relevant both for electronic payments and cash and should serve as primary reference when analysing non-cash payment means. The impression that cash is free is still common among the general public. Significant efficiency gains could be realised if payers changed their habits by using modern and less costly payments. Moreover, evidence suggests that the prevalence of cash payments has a positive correlation with the level of the shadow economy due to difficult traceability of cash payments. Therefore, the EESC encourages the additional initiatives taken by Member States with the clear support of the Commission in reconsidering the positioning of cash in modern economies.
- 3.3 In the EESC's view, additional measures aimed at increasing transparency, especially binding ones, should be considered carefully in order not to overload consumers with excessive information, which if provided at a wrong time (e. g. rush hours) and in complicated format could add confusion to shopping experience and disturb the check-out process for merchants.
- 3.4 International and several domestic card schemes base their business models on interchange fees that have been challenged to different extent by national competition authorities as well as by the Commission. The latter's decision of 2007 prohibiting MasterCard's cross-border interchange fee has been recently upheld by the General Court. The EESC notes that up to

now interchange-based business models failed to keep up with SEPA vision, i.e. no difference of fees for cross-border and domestic transactions. Moreover, the self-regulating mechanism that ensured the decrease of interchange levels with the increasing volume of transactions as well as alternative pricing solutions applicable for low-value payments were missing. The EESC urges the Commission to stabilise the long-term business environment for all operators by also taking into account the lessons learned by other regions (e. g. Australia) that have adopted a regulation in this regard and by ensuring a level playing field between different card scheme business models.

- 3.5 The co-badging of different payment brands either on plastic card or on forthcoming mobile platforms should neither undermine the right of consumers to choose between brands nor restrict possible incentives for merchants. Co-badging is important for new schemes entering the market and consequently facilitates both choice and competition. In some cases one brand places additional mandatory requirements for transactions through its network even they are initiated by another brand. In the EESC's view it should be ensured that one brand should not be in a position to impose such processing requirements.
- 3.6 The EESC shares the view that the separation of scheme management functions from processing is a key element to create a competitive payments cards market as vertical silos may use cross-subsidising when competing with independent processors. Moreover, the current set-up is less favourable for the envisaged initiatives fostering the interoperability between processors. Therefore, the separation, ideally at corporate level, would enhance the integration and competition processes within a Single Market.
- 3.7 Under the current legal framework, payment and e-money institutions are not allowed to access payment systems designated under the Settlement Finality Directive. These essentially target large value and retail payments. Should the Commission plan any changes to the current framework, the EESC would urge it to consider the risk element the new participants (i.e. payment institutions and e-money institutions) could bring to the existing payment systems (infrastructures), bearing in mind for instance that they have no access to central bank funding.
- 3.8 The SEPA Cards Framework (SCF) as originally developed by the EPC should not restrict business models developed by other operators. Ideally, the SCF needs to be carefully reviewed within the new SEPA governance structure taking into account the input of all stakeholders.
- 3.9 The EESC is concerned that the entities that are neither regulated nor supervised seek access to the sensitive account information. Moreover, the obligations and responsibilities of the operators involved are not properly reflected in the European legal framework and may have unexpected consequences for consumers in case of data misuse or fraud. The access to information on the availability of funds on bank accounts should be carefully analysed taking

into account such aspects as security, data protection, consumer rights, competition and compensation to account issuers.

- 3.10 Surcharging is the possibility for merchants to add a fee to the transaction value if a card is used. This option was recognised throughout the EU since the adoption of the Payment Services Directive, unless a Member State had explicitly prohibited it. The previous experience of surcharging applied in certain cases is not conclusive, at least in the short term. Early 2005 for instance, the Danes responded strongly to the imposition of fees on their domestic debit card scheme transactions, which dropped sharply while ATM cash withdrawals increased. Surveys conducted in other markets confirm this trend. Even though consumers would be protected from abusive surcharging by the Consumers Rights Directive as from 13 June 2014, it is not straightforward how this protection will be ensured in a highly agile online environment. The EESC takes a view that surcharging should not be encouraged as a Pan-European practice.
- 3.11 The card ecosystem is characterised by the lack of standardisation and interoperability. For instance, the terminal provider needs to go through up to seven certification processes in order to operate at EU level. The EESC calls on the private sector to join forces and produce concrete results, including in terms of implementation framework and ambitious deadlines. However, if market solutions are slow, the Commission should step forward with legislative proposals.
- 3.12 The availability of e-payment services is mainly restricted within national borders. The EESC calls on the operators of such systems to work on interoperability issues in an open and transparent manner and address missing issues in e-commerce as soon as possible. However, if the market does not deliver the expected results, the Commission should envisage regulatory requirements for the reachability of e-payment schemes at European level.
- 3.13 The EESC calls on the Commission to make sure that m-payments from the early phase of their development will respect principles of open access to platforms, portability of applications, security as well as avoidance of duplicate costs for operators wishing to accept these payments. Moreover, data protection authorities should support operators in their developing user-friendly solutions.
- 3.14 Security is key for public trust in payment instruments and should ideally be addressed in the designing phase. In the context of security it is crucial that any provider in the payment value chain is appropriately regulated and supervised. The EESC acknowledges the progress made by market participants in curbing fraud at physical terminals but notes that operators are exposed to fraud in on-line business. Security measures should not undermine customers' convenience and, if proposed by public authorities, should be technologically neutral to the extent possible. In this regard, the EESC welcomes the recommendations of the institutions participating in the SecuRe Pay Forum on the security of internet payments and ultimately their efforts to enhance the security level and public trust in electronic payment services. The



correct implementation of these recommendations should be further monitored by the relevant authorities.

- 3.15 However, curbing fraud requires additional measures among relevant authorities of the Member States. In this regards the EESC welcomes the establishment of a new European Cybercrime Centre at Europol, which will be operational by 1 January 2013 and hopefully will become the competence centre in the EU's fight against fraudsters. This initiative was advocated by the EESC in its own-initiative opinion on combating fraud and counterfeiting of non-cash means of payments adopted on 23 October 2008<sup>3</sup>. The EESC notes that other measures defined in that opinion remain of high importance and should be considered as well.
- 3.16 Payments involve many stakeholders and their interests, though they may sometimes be diverging, should be taken into account when constructing the future payments landscape. The new SEPA governance should ensure openness, transparency and a level-playing field in this evolving and ambitious project. The EESC welcomes the on-going efforts by the Commission and the European Central Bank to centralise the "ownership" of SEPA, for instance under the umbrella of the SEPA Council. However, the EESC urges to speed up the process as the current de facto vacuum hinders its implementation.

Brussels, 19 September 2012

The President  
of the  
European Economic and Social Committee

Staffan Nilsson

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[OJ C 100, 30.4.2009, p.22.](#)