

## EPC Newsletter

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### FRINGE OBSERVATIONS ON SEPA

## Nowhere to go but forward

How to create momentum for the SEPA programme

26.09.11 BY JAVIER SANTAMARÍA

The EPC Newsletter introduces a "speaker's corner" featuring the voices of EPC members that are delivering SEPA services to customers. Their commentaries highlight aspects transcending the day-to-day management of the process aimed at making SEPA a reality in the foreseeable future. Kicking it off, Javier Santamaría reflects on how to get the thrill back into the programme and all players on board. In his view, three measures are necessary: bring market conditions back into the process; build a credible argument for SEPA based on substantiated data rather than wishful thinking and convince all stakeholders (not only banks) to take ownership of the programme.

### The point of no return

Ten years ago, SEPA was not a top priority for the European Union. Rather, it was a nice-to-have item, easy to spot out. Now it has become a necessity. At this point, with such huge investments in place, after so much bullying about and the SEPA Schemes in operation, it is only sensible to continue the project till its completion; all other options are worse. The legendary Mrs Thatcher, when confronted with the colossal losses the Concorde project was piling up, purportedly once stated: "It was a nonsense project we should have not pursued; now it is unavoidable and we must fulfil it, but it is the last time we endeavour in launching this kind of initiative". Not wishing to equate SEPA with a nonsense project, however, the statement aptly describes the options available at this point as regards the SEPA initiative. This being said, a number of elements need to be added to the process to get the momentum going.

### Payment services are not social services: the need for a business case

I am positive that, after the European banking industry committed to take all necessary steps to help create SEPA, there is only one way to go: ahead. And we are in our isolated SEPA world working hard with our nose close to the desk while the universe around us is falling into pieces. Here we are, with the foundations of the banking industry trembling: many banks being bailed out and others going bankrupt (straightforward or deceptively disguised for the time being). At the same time, massive public intervention has the competition compass spinning madly around with no consistent direction. In this troubled and confused landscape still our community struggles to realise SEPA. I say that, today, banks working in favour of SEPA are to be praised and appreciated, for the surrounding circumstances are not better now than they were in the past and the forces against SEPA are growing stronger.

In this light, it is astonishing to realise that above any other consideration, banks are under suspicion regarding their payments activity, as if they followed a hidden agenda and were using cooperation procedures to the detriment of the market and the required competitive spirit. As a matter of fact, it is the demands of authorities on SEPA that force banks to put market conditions on hold and give artificial life to SEPA. This has been the case during the first infant stages, but must not last in the long term. If we want SEPA to serve its purpose and achieve its goals, it must move back to market conditions. Payments need to be seen as a business, with economic and social implications, certainly, but unfeasible if payment services are void of financial profitability.

Payments should not be idealised as if they had to be social services, almost free for users and universal in their

reach, or else we will have free universal social payments services... of very poor quality. In this current time of turmoil and distress this message may seem to be politically incorrect but, after acknowledging this risk, I show my firm belief that market conditions are axioms to be respected if we want a solid SEPA to become a reality; if we want, even, to design a future beyond SEPA with some innovation in payments flowering sooner or later. Today's absence of business cases for innovative payment initiatives is a considerable risk that is not properly understood by the authorities and leads to the situation that European citizens will be deprived of modern payment instruments and services, fitted to their needs and requirements.

## How to build a credible argument for SEPA

Today, SEPA runs the risk of being perceived as alien to European citizens, firms and institutions. At the same time, there are too many doctors just watching and overseeing the new born baby in the Neonatal Intensive Care Unit. Some of these doctors, instead of helping, are consuming the oxygen available and increasing the chance of the baby suffocating. One of these well-meaning care-takers, it may turn out to be, are the regulators who continue to defend SEPA on the basis of unproven assumptions. Unfortunately, regulators are not subject to the same standards of evidence as other parties.

To give an example: recently, the European Commission services published a paper<sup>1</sup> describing how economic data should be presented to them to assess claims from market participants in those cases in which competition is at stake. Specifically, the paper addresses article 101 and article 102 of the Treaty on the Functioning of the European Union (TFEU).

These articles define and list all agreements, decisions and practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market. Paragraph 3 of article 101 identifies the cases in which practices that in principle could be viewed as impeding competition may be permissible. Such is the case, if such practices, amongst others, contribute to improving the production or distribution of goods, or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits<sup>2</sup>.

The Commission paper on the TEUF is a fair document, well prepared, coherent and valuable to understand the intrinsically difficult issues that touch competition in the payments industry and in other areas of economic activity. It is under consultation and, if anything, it is likely to be improved during the process. The shocking element with regard to this paper, however, is the asymmetric situation which forces market participants to deliver their arguments and reasoning in a very specific and scientific format - whilst regulators rarely choose to adhere to such a format themselves. I am still waiting to see the economic evidence and data in cases of the authorities assuming that this or that practice infringes on competition, putting the burden of proof on the practitioner to show that this is not the case. Perhaps it is too much to ask for equal conditions to be applied both ways, but I do not deem it fair that one party has to provide scientific evidence to back its arguments while the other gets its way by just assuming and not proving.

In how far does this example relate to SEPA? Since the inception of the process, the regulators have asked the banking industry to act upon regulators' assumptions on what customers demand - namely, harmonised SEPA payment instruments. At no point did the regulator provide scientific evidence or data to substantiate this claim. As the statistics on market uptake of the SEPA Credit Transfer clearly demonstrate, that assumption was wrong. Having cultivated the legend of SEPA being a demand-driven process resulted, firstly, in a lack of effective strategies designed to encourage SEPA market uptake. By comparison: such strategies were in place for the introduction of the euro, a project comparable to the SEPA initiative. (The regulators never assumed, though, that the euro should be introduced due to public demand for a common currency in Europe). Secondly, having built the case for SEPA on the - false - assumption of popular demand for harmonised payment instruments now creates a problem for regulators and banks alike to defend the entire concept - in particular vis-à-vis customers - despite the fact that there are extremely good reasons to harmonise the euro payments market (to learn more about these, just read the EPC Newsletter).

## Taking ownership of SEPA - each according to their ability

The very old debate whether SEPA is a political initiative or a project conceived by banks to be led alone by them has had the perverse consequence of provoking a lack of ownership in the rest of stakeholders. What is required instead is a higher degree of cooperation between the public and the private sectors with a view to building a realistic and credible case for SEPA. This is not only desirable but achievable, and to that end we need to commit to increase the level of trust and accountability. At the same time, regulators must recognise that innovative payments services as desired by the authorities need to be a feasible economic activity; i.e. must present a business case.

As in an orchestra, different musicians play different instruments and it is critical that each one plays the right one and preferably shares the same score when playing together. To answer the question of who leads and whether SEPA is a public or a banking industry initiative, my answer is that the composer is the public sector, creating the idea of music, setting goals and defining the rules of the game. The realisation of music is the private sector's role, actually performing and interpreting how to get ahead and deciding on the best way for the music to be produced and delivering to the audience.

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[1] *Best practices for the submission of economic evidence and data collection in cases concerning the application of articles 101 and 102 TFEU\* and in merger cases.* European Commission; Competition DG. \**The Treaty on the Functioning of the European Union*

<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:EN:PDF>

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