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EC - Green Paper ‘Towards an integrated European market for card, internet and mobile payments’ European Payments Council Response

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1. EPC INTRODUCTORY NOTE

This document constitutes the response of the EPC to the European Commission's Green Paper "Towards an integrated European market for card, internet and mobile payments" (Green Paper).

Whilst the EPC agrees in principle with the "market integration drivers" outlined in the introduction of the Green Paper (competition, choice, innovation, payment security and customer trust), the EPC does not support a number of assumptions and suggestions made within the document. In our belief many of those suggestions will not help achieve the stated objectives and may even undermine their realisation.

A thorough factual analysis is a prerequisite for any conclusion that further regulatory action may be required. In particular, the EPC would like to highlight the following key facts about the payment landscape and its recent development, those being:

- Europe is not a fully integrated market in terms of e.g. economic development, cultural background, customer preferences or regulatory framework. This is clearly reflected in the current diversity of payment systems and usage patterns that continues to exist across Europe.
- Europe and its payment markets cannot be considered in isolation as they are part of an increasingly integrated global economy, due to the fact that:
 - European citizens travel and spend outside Europe;
 - Non-European citizens travel to and spend in Europe;
 - International trade occurs between Europe and the rest of the world;
 - The European payment industry is competing with non-European competitors within Europe and the global market place;
 - Electronic commerce, which is the fastest growing retail payment segment, has a global dimension;
 - Many global standardisation initiatives exist in the field of payments.

The SEPA project, with its underlying and legitimate goal of European market integration, needs to be balanced with the above economic realities.

- Major market achievements to date to progress SEPA seem to be overlooked (e.g. development and launch of SEPA Credit Transfer and SEPA Direct Debit schemes, publication of the SEPA Cards Framework (SCF) and the SEPA Cards Standardisation Volume - Book of Requirements, a nearly completed migration to EMV chip and PIN for face-to-face card transactions and more generally a spectacular growth in card transactions (see Annex), contributions to the development of an integrated m-payment ecosystem).
- Payments do not act as a main barrier to the development of e-commerce otherwise e-commerce would not have experienced continuous fast growth as evidenced by several market studies¹.

¹ See below links to a few relevant studies:

http://ec.europa.eu/consumers/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf

<http://www.accenture.com/SiteCollectionDocuments/PDF/Accenture-ERRT-Brochure.pdf>



- M-payments are still considered as an emerging payment channel across the world as well as in Europe. Any such early stage of market development is characterised by numerous and diverse innovative initiatives and pilots.
- Within the SEPA Council there are currently discussions on the restructuring of the SEPA governance to which the EPC has recently contributed.

In addition, the EPC would like to share a few key policy considerations which it believes are important when looking at potential initiatives:

- The societal cost of cash and the societal benefit of migration to electronic payments are largely ignored by the Green Paper whereas the active promotion of non-cash means of payment would significantly contribute to the achievement of the objectives pursued by the Green Paper;
- Regulatory intervention should not undermine the innovative capacity of the European payment sector and its competitiveness in the global marketplace;
- Regulation risks stifling innovation and market participants-led standardisation initiatives;
- Regulation is not suited to keep pace with the fast evolution of technology, fraud and market developments. As a matter of principle, any regulatory action should be technology-neutral;
- Ensuring a level playing field for all players active in the European market place from a competitive, regulatory and supervisory perspective must be a public policy priority;
- Payments should be able to be run as a business in a market economy (subject to competition, transparency and efficiency);
- Legal clarity and certainty at pan-EU level is a critical pre-requisite for creating a stable and predictable SEPA wide environment for investments in new payment initiatives and innovation - e.g. interchange fees;
- Integrity and customer trust are key in payments and should not be compromised;
- End user interests should be properly balanced with a particular focus on ensuring tangible benefits for consumers;
- Any regulatory initiative should be supported by a thorough impact assessment and subject to a comprehensive public consultation and appropriate implementation schedules.

The EPC would appreciate these introductory comments to be duly considered by the Commission when reviewing our response and drawing their conclusion from the public consultation on the Green Paper.

2. EPC RESPONSE TO QUESTIONS

Q1) 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?

The European card market exhibits varying national maturity levels, economics, practices and regulatory regimes. This diversity manifests itself (amongst other things) within the different levels of interchange fees across Europe.

Amongst the objective factors underlying these differences of interchange fee levels, the following can be highlighted:

- The average amount per transaction varies significantly from one economy to another;
- The volume of card transactions, hence unit costs, vary considerably across Europe;
- The services rendered to merchants and cardholders are fundamentally different and bear varying costs and charges;
- Settlement dates as well as the level of guarantee to merchants differ amongst countries and their respective schemes;
- The cost of funding (and the availability of funds) differs from one Member State to the next;
- The cost of cash varies amongst Member States;
- Local legislations / regulatory regimes are diverse and therefore create diverse market conditions (e.g. interchange fees, surcharging).

Europe can only expect convergence in the area of interchange fees once these significant differences in the underlying factors have been reduced which will create the conditions for a more integrated cards market in Europe.

In conclusion, open access, a level playing field and publication of multilateral interchange fees are essential requirements.

Q2) 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?

Currently there is a lack of clarity, certainty and consistency of regulatory regimes affecting interchange fees across Europe. Addressing this situation would enable a more harmonious and effective development of the cards market in Europe.

As cards are issued for a validity period of up to five years, it is of utmost importance for card-issuing institutions to obtain long-term certainty on the underlying economic assumptions of their card issuing programs. Currently, there is uncertainty concerning the medium to long-term evolution of interchange fees for international and domestic schemes.



This situation therefore makes it difficult for issuing institutions to properly plan their issuing business, thus preventing investments in development and innovation. Legal clarity is required from two perspectives:

- interchange fees within payment systems are legal;
- methodologies that are compliant with competition law.

Such legal clarity should be provided by the General Court in its decision in the pending MasterCard case.

Q3) 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?

Please refer to the responses supplied for questions 1 and 2. As previously mentioned, legal certainty, publication of interchange fees, a level playing field and open market access are important elements.

Q4) 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?

Cross-border or central acquiring could be fostered by greater harmonisation (through the use of common protocols) in the terminal and terminal to acquirer domains at European level. The Cards Stakeholders Group supports this by developing common requirements and as a result compliant market initiatives have emerged. Standardisation should however not restrict innovation and its costs should not exceed its benefits.

Central and cross-border acquiring provides competition and freedom of choice for merchants.

The possibility to conduct acquiring in multiple member states exists today for international card schemes.

In addition, the SCF issued by the EPC provides clear principles in this regard:

SEPA Cards Framework v2.1

Quote

3.2.2. Participation, licensing, contracting, principles for pricing and business model, operational quality

c) Licensing:

All SEPA banks or payment institutions must be offered basic card payment products and services throughout SEPA on the basis of a single licence from each SCF card scheme without the requirement to obtain individual licences for each SEPA country. This means e.g. that a licence for a SEPA country gives a bank or payment institution the right to issue or acquire in any other SEPA country or countries or region(s) [...]



At their discretion, banks or payment institutions must also be able across SEPA to enter solely into an acquiring licence.

Unquote

Q5) 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?

Please refer to the response supplied for question 4.

Intra-country transactions should be subject to the applicable intra-country MIFs, irrespective of the geographic origin of the acquirer, in order to ensure a level playing field at country level. International transactions should be subject to the applicable cross-border MIF. Convergence of MIFs should significantly reduce those differences over time.

An important precondition is that any national rules or best practices be made available by the schemes to all (potential) acquirers.

Q6) 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?

The cards co-badging issue is addressed within the SCF. The decision of co-badging should be left to the issuer, subject to applicable scheme rules.

SEPA Cards Framework v2.1

Quote

1.2.1. Implementation options

On the basis of the present situation in each country, each bank or payment institution as participant in, and user of, various SCF compliant card schemes has a choice of a number of options, or combination of options, to offer SCF compliant card products (as defined in 1.3.2 hereafter). These options include for example:

[...]

- Option 3: brand its cards with more than one SCF compliant schemes provided that these schemes accept such co-branding;

Unquote

Q7) 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?

Ultimately the cardholder makes the decision on prioritisation of mutually supported brands, as defined in the SCF and the SEPA Cards Standardisation Volume - Book of Requirements.

SEPA Cards Framework v2.1

Quote

3.6.1. Cardholder experience

Card scheme rules must enable and facilitate for cardholders a consistent payment and cash withdrawal service experience throughout SEPA. In accordance with Directive 2007/64EC, where several payment applications are made available by the issuer in the same card, supported by the same terminal, and are accepted by the merchant, cardholders will have through their cardholder agreement with their card issuer the choice of which payment application they will use provided the merchant accepts it and its POS equipment supports it (For example, where the POS equipment is limited to certain transaction types e.g. motorway tolls: in such cases the default application set by the issuer should be used). The agreement between the cardholder and the issuer will define the choices available to the cardholder. Prevalence at POS or ATM for a particular payment application may not be mandated by a card scheme or ATM operator or merchant.

Unquote

SEPA Cards Standardisation Volume - Book of Requirements v6.0

Quote

4.4.3.3.2 - Application Selection

Req T30: For contact based transactions Application selection shall follow EMV rules.

Req T31: For contactless transactions Application selection shall follow [EMV Contactless Specifications for Payment Systems. Book B, Version 2.1 March 2011]

Req T32: In addition, the following clarification rules shall apply:

- 1. The terminal shall always construct the list of mutually supported applications between the card and the terminal. It shall then implement either rule 2 or rule 3.*
- 2. Terminals shall present all mutually supported applications for choice by the cardholder.*
- 3. Automatic selection of the highest priority of mutually supported applications:*
 - Automatic selections in case they would happen should follow the priority indicators associated with the different applications in the card.*
 - Automatic selection should be used for:*
 - Non-PIN environments including but not limited to toll roads, parking, etc.*
 - Contact-less transactions.*
 - Environments where the speed of transactions is a priority.*

In this case of automatic selection, where practical, cardholders shall have the possibility to go back in the process and ask for their preferred application.



Only if an agreement exists between all relevant parties (e.g. acceptors, issuers, schemes, etc.), applications may be filtered out before applying the general rules. This can only be applied in cases where the cardholders and issuers agree this makes no difference to the cardholder's perspective. If this is implemented, it shall be completed prior to rules 2 or 3.

Unquote

Q8) Do you think that bundling scheme and processing entities is problematic, and if so why? What is the magnitude of the problem?

The SCF provides the following principles concerning bundling:

SEPA Cards Framework v2.1

Quote

3. Commitments by card schemes

3.2. Scheme's rules requirements

3.2.2. Participation, licensing, contracting, principles for pricing and business model, operational quality

e) Scheme pricing principles:

Card schemes commit to provide their participants with SEPA-wide, transparent pricing structures ("scheme fees"), that will endeavour to allow for participation by the greater number of banks and payment institutions. In this context "transparent" shall mean that the nature of the service or activity thus remunerated is unambiguous for the scheme participant or user: prices may not be presented in a bundled manner when referring to services or activities of a different nature. E.g. schemes will not operate cross-subsidies between their issuing services and acquiring services or between their network / processing services and brand expenditures [...]*

**Not in a "bundled manner": as processing and clearing must be separated from a scheme's brand management and governance, scheme participants must also be charged separately for these different services and functions.*

Unquote

Quote

3.2.3 Separation of card scheme governance, processing and other functions

A SCF compliant card scheme is a scheme that allows unbundling of functions whilst applying the same pricing per card product to national euro and SEPA transactions of the same type. Separation of SEPA card schemes' brand governance and management from the operations that have to be performed by service providers and infrastructures under these SEPA schemes is mandatory. A card scheme may offer additional services (e.g. processing services) but their usage cannot be mandated.



Scheme rules may not require as a condition of participation that any particular provider of processing services (e.g. network management, authorisation² switching, clearing, settlement) be used. Equally SCF compliant schemes may not mandate any certification to be performed only by a proprietary certification body. This, however, is not intended to pre-empt legitimate risk management³ requirements from card schemes.

Consistent with 3.2.2 d) above, no card scheme will discriminate when pricing services or charging any fee between banks and payment institutions who use additional services offered by the said card scheme, and banks and payment institutions who do not, or only partially so.

Unquote

Q9) 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'?

Please refer to the response supplied for question 8 as the SCF covers these issues.

Q10) 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?

Access to clearing and settlement systems should be based on a level playing field in terms of regulatory and supervisory requirements and ensure integrity of payment systems. The Payment Services Directive and the Settlement Finality Directive appropriately address these issues.

² See definitions

³ See definitions

Q11) 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?

The SCF sets the following principles for cards processing:

SEPA Cards Framework v2.1

Quote

3.6.3.1. Necessary interoperability domains

In order for the objectives of this Framework to be achieved, SEPA-level interoperability must be ensured in the following 4 domains:

[...]

- acquirer to issuer interface, including network protocols (authorisation and clearing). Such interoperability will allow the different market options described in this Framework to exist.

This Framework does not have as its purpose the mandating of any single option nor infrastructure.

Unquote

Access to processing infrastructures should be based on objective, non-discriminatory and transparent criteria.

Fees and other commercial terms are to be left to the commercial negotiations between the parties involved.

Please also refer to the response supplied for question 10.

Q12) 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?

The SCF defines its purpose as follows:

SEPA Cards Framework v2.1

Quote

1.1. Introduction

This SEPA Cards Framework (hereafter referred to as “the Framework”) spells out high level principles and rules which when implemented by banks, payment institutions, card schemes, and other stakeholders, will enable European customers to use general purpose cards to make payments and cash withdrawals in euro throughout the SEPA area with the same ease and convenience than they do in their home country. There should be no differences whether they use their card(s) in their home country or somewhere else within SEPA. No general purpose card scheme designed exclusively for use in a single country, as well as no card scheme designed exclusively for cross-border use within SEPA, should exist any longer. This implies that banks and schemes operating in non-euro SEPA countries need to be SCF compliant for handling euro transactions.



Therefore compliance with the SEPA Cards Framework (hereafter “SCF Compliance”) will be achieved when the high level principles and rules of this Framework are implemented.

Unquote

The SCF needs to reflect relevant market and legislative / regulatory developments including technology evolution and therefore should be reviewed from time to time.

Q13) 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?

As a preliminary remark, there should be no distinction between ‘non-banks’ and ‘banks’ in respect of any potential access to information on the availability of funds in accounts held with PSPs.

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

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

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

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

Q14) 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?

Whilst there are many alternatives to card (or card-based) payments, it should be emphasised that many businesses choose to accept card payments in preference to others for many reasons, not least immediate and guaranteed payment. It is misleading to suggest that these businesses are in some way “dependent” - they have simply exercised their choice in terms of the payment instruments they wish to accept.



Merchants need to get paid, and have a variety of options available; they have the option to accept one or more of the following instruments: cash, cheques, credit transfers, direct debits, debit or credit cards (cards from one or several schemes) or online payment schemes.

Q15) 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?

As a matter of principle, we do not see why payments should be singled-out as the only cost item to be disclosed to the end customer.

We believe that consumers are not interested in that detailed level of information which may lead to misunderstanding, confusion and lack of true transparency.

Furthermore, disclosing specific cost items could interfere with the confidentiality of bilateral commercial terms agreed between the merchant and its suppliers as well as raise competition issues and infringe on merchant commercial freedom.

MIFs are publicly available on several schemes websites e.g. international card schemes.

Q16) 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?

Usage of rebates, 'surcharges' and other steering practices are means of competition and should be left to market forces, subject to full transparency.

The present provisions of the PSD and the diverse national rules should be adjusted accordingly in order to harmonise the legal framework on 'surcharging' in different Member States. Excessive surcharging (above the actual merchant cost of accepting different means of payment) should be avoided.

Q17) Could changes in the card scheme and acquirer rules improve the transparency and facilitate cost-effective pricing of payment services?
Would such measures be effective on their own or would they require additional flanking measures? Would such changes require additional checks and balances or new measures in the merchant-consumer relations, so that consumer rights are not affected? 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?

Price transparency, freedom of choice and a level playing field are important principles also within this context.

There is no need for further action (“flanking measures”).

Q18) 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?

The use of common standards is considered to be beneficial as it facilitates the acceptance and usage in all countries and increases choice and competition. Developments to achieve compliance with the various standards and specifications adopted by different card schemes are very expensive and time consuming.

Work is undertaken by the EPC and the Cards Stakeholders Group to define a set of functional and security requirements for all parties in the cards market. Implementation of these requirements will deliver those benefits but demand investment and time.

There is no gap in the Card-to-Terminal domain.

Q19) Are the current governance arrangements sufficient to coordinate, drive and ensure the adoption and implementation of common standards for card payments within a reasonable timeframe?
Are all stakeholder groups properly represented? Are there specific ways by which conflict resolution could be improved and finding accelerated?

In the European context of cards, the Cards Stakeholders Group (comprising representatives of five key sectors, namely the PSPs, Schemes, Retailers, Processors and Vendors) is working actively on a consensus basis. The corresponding governance arrangements are considered to be sufficient. There is currently no apparent conflict that needs to be addressed.

Development and implementation of new standards require investment and time.

Q20) 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?

It is difficult to see how the involvement of CEN or the ETSI could lead to any improvement of the current market driven approach to standardisation in card payments. Card standardisation is already handled very actively in various global card standardisation bodies where European stakeholders are actively participating. It would be inefficient to start afresh with a European committee or institute with no deep expertise in card payments.

Q21) On e- & 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?

E- & m-payments are fields of innovation for which a number of areas are still in development. At the moment a number of market participants are piloting solutions on a trial basis. Standardisation in the e- & m-payment areas will occur as the markets mature thereby ensuring a secure, open and interoperable marketplace. It should also be noted that e- & m-payments are mainly based on card, credit transfer or direct debit payments and the e- & m-payment part is limited to end user interface or channel issues.

With regard to the m-channel, the EPC has published a number of documents that address interoperability and portability, and which have been reviewed through consultation by stakeholders involved in the ecosystem, specifically:

- The white paper on Mobile Payments providing detailed use cases and services descriptions for mobile remote and contactless payments, and also including some aspects on mobile wallets (EPC492-09);
- The EPC and the GSMA jointly published a document focusing on the different roles and processes involved in provisioning and lifecycle management of the Mobile Contactless Payment application on the UICC: Mobile Contactless Payments Service Management Roles - Requirements and Specification (EPC220-08);
- The Mobile Contactless Payments Interoperability Implementation Guidelines (EPC178-10), promoting an interoperable and flexible architecture;

Further work is also planned on Mobile Remote Payments Interoperability Implementation Guidelines.

These documents are based on global specifications and standards such as Global Platform, ISO, and EMV. The next steps would be the adoption and implementation of these global standards by the stakeholders involved in the ecosystem.



For the e-payments channel more standardisation is needed and this should take place on two levels:

- Innovation: Standardisation is needed in particular for scheme-to-scheme interoperability for existing and future e-payment schemes to the benefit of consumers and merchants.
- “Open innovation”: We welcome the concept of “open innovation” as it may allow a much wider community to develop new and innovative solutions, provided that the integrity and security of payments is not jeopardised.

Q22) 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?

We do not see any specific topics which would require European standardisation given the global reach of e- & m-payments.

The EPC is liaising with GlobalPlatform, the leading worldwide association focused on establishing and maintaining an interoperable and sustainable open infrastructure for smart card deployments. Its technology supports multi-application, multi-actor and multi-service model implementations, which delivers benefits to customers, issuers, different service providers (e.g. payments, transport, ticketing, loyalty) and technology suppliers.

Specifically for payment aspects, the EPC works with the following standardisation and industry bodies:

- The International Organization for Standards (ISO) which specifies technical standards used in mobile payments such as standards for integrated circuit cards, communication protocols such as NFC, security mechanisms. The EPC contributes to the work done on mobile payments within the dedicated ISO TC68 SC7 WG10 (Mobile Banking / Payments).
- The GSM Association (GSMA) representing the worldwide mobile communications industry, with whom the EPC has collaborated on the different roles for the MNOs and the payment service providers (PSPs) for mobile contactless payments applications residing on the UICC and their life cycle management. Jointly, they have published the 'Mobile Contactless Payments Service Management Roles - Requirements and Specifications'.
- EMVCo and the Card Schemes: alignment with and leveraging of the work of these organisations is ensured to foster interoperability amongst all the different stakeholders involved in the ecosystem.
- The EPC is also working with other industry bodies such as MobeyForum, a global cross-industry forum, whose mission is to facilitate mobile financial services.

For e-commerce, we see ISO as an important body in some of the payments standardisation processes. A new potential area of standardisation could be the interoperability of e-payment schemes.

Q23) 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?

From the cards perspective, there are no segments in the payment chain where interoperability gaps are particularly prominent. The Cards Stakeholders Group addresses standardisation and interoperability issues by regularly reviewing the SEPA Cards Standardisation Volume-Book of Requirements.

The mobile payments interoperability implementation guidelines published by the EPC (after an external consultation with stakeholders involved in the mobile ecosystem) address the interoperability issues between the different stakeholders involved and the life cycle management of mobile payments. It is based on GlobalPlatform's open infrastructure for smart card deployments. Its technology supports multi-application, multi-actor and multi-service model implementations, which delivers benefits to different service providers (e.g. payments, transport, ticketing, loyalty, health insurance) and their customers.

An interoperability gap does currently exist within the e-payments area, namely in the interoperability of e-payment schemes, requiring e.g. the standardisation of payment initiation and payment confirmation messages.

Q24) 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 finding accelerated?

Concerning the issue of the perceived lack of progress on e-commerce and mobile payment, we do not share the EC's view on this matter:

- The interoperability for mobile payments is not in a "stalemate" but in an emerging state. The EPC has made considerable efforts to facilitate and engage with other stakeholders to help create solutions for interoperable mobile payments. Mobile payment schemes already exist today. Please also refer to the responses supplied for questions 21 and 22.
- It is incorrect to state that e-commerce has made slow progress. This market is, and has been, growing with double digit growth rates continuously. This is not least because of the provision of many well accepted payment solutions by payment service providers in general (card payment on the internet, online banking based payment solutions, wallet solutions, etc.). The EPC has developed a draft Framework for the interoperability of e-payment schemes in Europe - seeking to leverage Europe's base of online banking users in a secure, efficient and cost effective way. However a public consultation on this draft Framework was suspended as a result of the current anti-trust investigation.

- The position paper on “Online Payments in Europe” published in June 2011 by the “e-payments Merchant Initiative” (<http://www.thuiswinkel.org/cms/streambin.aspx?requestid=6EE68028-0083-4729-9686-C049D57534BD>) highlights the fast development of e-commerce in Europe:

Quote

In the past 15 years e-commerce has become a mature market and is still growing. This trend is expected to continue in the coming years due to the further proliferation of mobile devices (smartphones, tablets) and the customer need of ‘being always online’.

E-commerce is serious business

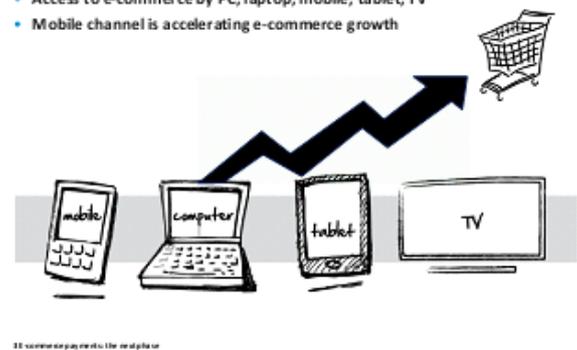
- Estimated EUR 250 bln revenue total in Europe in 2011
- Estimated double digit growth for the coming years
- Estimated to be around 11 % of retail sales in 2011, and still growing



Source: Innogy eMetrics
2 European payments landscape

Today e-commerce is all around us

- Access to e-commerce by PC, laptop, mobile, tablet, TV
- Mobile channel is accelerating e-commerce growth



Following this market success, e-commerce payments have become a major challenge in the past decade. The vibrancy and innovation of payments is resultant from imperfections in the European payments landscape. These imperfections bring opportunity to create new more efficient methods to consumers and merchants.

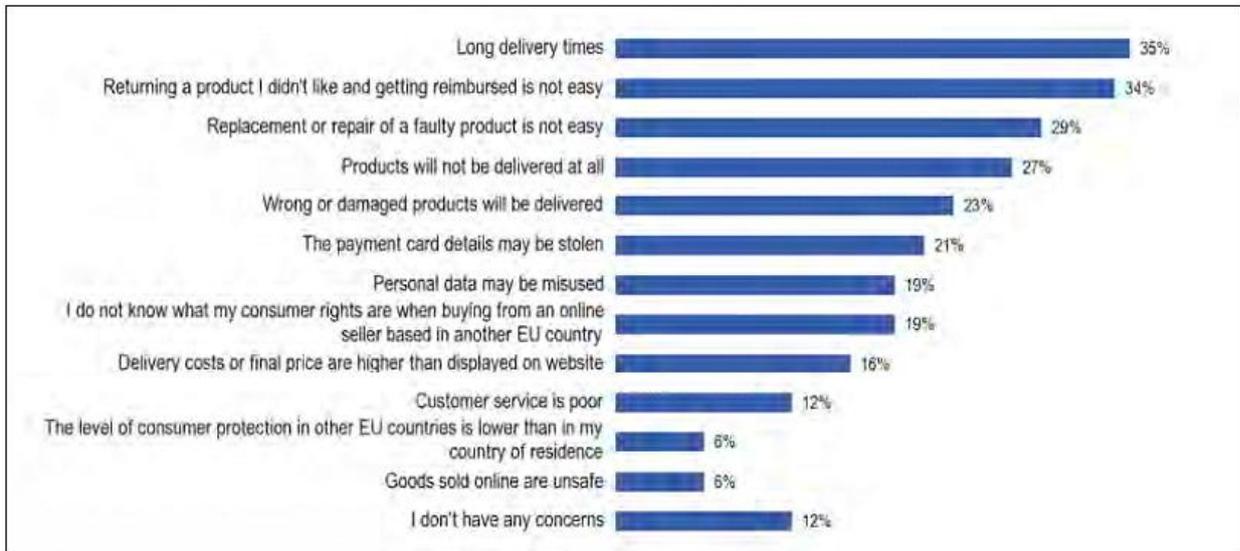
Many positive developments have taken place to optimize payments for the web. Innovation has seen traditional payment methods come under pressure as consumers and merchants migrate to more convenient and efficient and secure payment methods. [...]

Allowing free market forces, to drive the evolution in the European payments landscape is the best possible way of moving to a more perfect model.

Unquote

In order to promote e-commerce, the main obstacles as perceived by consumers need to be understood and overcome. In this context, we would like to refer to a consumer market study on the “Functioning of e-commerce and Internet marketing and selling techniques in the retail of goods” dated 9 September 2011, and commissioned by the Executive Agency for Health and Consumers, acting on behalf of the Directorate General for Health and Consumers of the European Commission (http://ec.europa.eu/consumers/consumer_research/market_studies/docs/study_ecommerce_goods_en.pdf).

Please see below figure 44 (page 132) which lists consumers' greatest concerns about buying products online in another EU country. None of these top five concerns relate to payments.



In addition the Accenture / European Retail Round-Table study on European cross-border e-commerce (<http://www.accenture.com/SiteCollectionDocuments/PDF/Accenture-ERRT-Brochure.pdf>) reveals that fragmentation of payment systems does not rank within the top 15 issues having an impact on EU cross-border online trading.

Governance arrangements and stakeholder involvement are currently being reviewed as part of the SEPA governance discussions taking place within the SEPA Council.

Q25) 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?

According to our current assessment, EMV provides the appropriate level of security for contact and contactless transactions in Europe. However, the worldwide deployment of EMV is essential to fill any remaining security gap (use of magstripe and risk of skimming). Whilst security is currently deemed to be sufficient, potential fraud threats need to be anticipated and further mitigation may need to be put into place within the card payments chain if required. Security is in constant development and can never be considered complete.

For m-payments a potential weak point is the mobile phone (or its operating system) which is not specifically designed for the purpose of providing a trustworthy user interface for payments like current point of sale terminals. The technology of mobile handsets, however, does offer the opportunity for further security enhancements. Moreover, a better market take-up of standards for the secure management of mobile payment applications on mobile phones (e.g., GlobalPlatform) is needed.

From a PSP perspective, it is crucial for the market to retain the flexibility to be able to regularly review the methods and systems that are used to achieve the necessary level of security in response to the changing risk profile in the market. It should be recalled that all PSPs, that are licensed / regulated are also already being supervised in that regard by their regulators with the objective of ensuring that they continue to be watchful and responsive in this area. In order to ensure integrity and security of payments all providers should be appropriately regulated and supervised.

Q26) 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?

Technology in this space is constantly evolving. It is therefore not appropriate to mandate, through regulation, the adoption of specific measures such as two-factor authentication. In order to maintain the levels of security that the market needs, it is critical for PSPs to have the flexibility to take a dynamic approach to risk management, based on available security technologies, customer impact and cost/benefit considerations. The fast development of the e-commerce area needs market-driven solutions and the payer PSP/card issuer should be in charge of deciding the means of authentication after assessing the relevant level of risk associated with it. It is not advisable to allow these payments without a secure payment application requiring effective cardholder identification since exposure to fraud and misuse will cause monetary losses and hinder the development of e-commerce. A set of common security requirements is needed in order to ensure the integrity of retail payments. The EPC and the Cards Stakeholders Group (CSG) are addressing this matter. We also understand that the Eurosystem and European banking supervisors are developing recommendations in this area under the SecuRe Pay initiative. The EPC and CSG documentation will be updated to reflect these recommendations.

Q27) 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?

Please refer to the response supplied for question 26.

A level playing field between the various actors should be ensured.

In general terms, it is our view that a regulatory framework for payment security would risk stifling innovation in the area of payment services and not be capable to keep pace with the constant evolution of security requirements in order to combat fraud.

Q28) 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??

The greatest need is for consistency in the area of implementing legislation at national level and for effective supervision. Key principles and detailed data protection requirements must be enforced consistently on all parties in a harmonised way across the EU in order to ensure adequate protection of consumers and a level playing field between payment service and solution providers.

Q29) 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?

The EPC has been consistently involving stakeholders through public consultations and various stakeholder bodies. For example the Cards Stakeholders Group, composed of representatives from five sectors (PSPs, retailers, schemes, vendors and processors), develops the SEPA Cards Standardisation Volume - Book of Requirements. In addition, the Customer Stakeholder Forum gathers representatives from the various end-user groups (consumers, SME's, corporates, merchants, publishers, insurance) in a regular dialogue with the EPC in the other SEPA domains. In both of these groups, the EC and the ECB participate as observers. Both of these bodies are co-chaired by an EPC representative and a representative from the other stakeholders.

As part of the current discussions on SEPA governance within the SEPA Council, the EPC has recently made a proposal for a possible future model further building on the existing foundations. We propose that the SEPA Council - co-chaired by the EC and the ECB and composed of high-level representatives of the supply and the user sides - takes on full responsibility for steering the SEPA initiative and for setting the main priorities to be worked on in a multi-stakeholder structure, without the need for regulation.

Q30) 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?

Please refer to the response supplied for question 29.

Q31) 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?

Please refer to the response supplied for question 29 and in particular to the EPC proposal for a new SEPA governance model.



Q32) This paper addresses specific aspects related to the functioning of the payments market for card, e- & m-payments. Do you think any important issues have been omitted or under-represented?

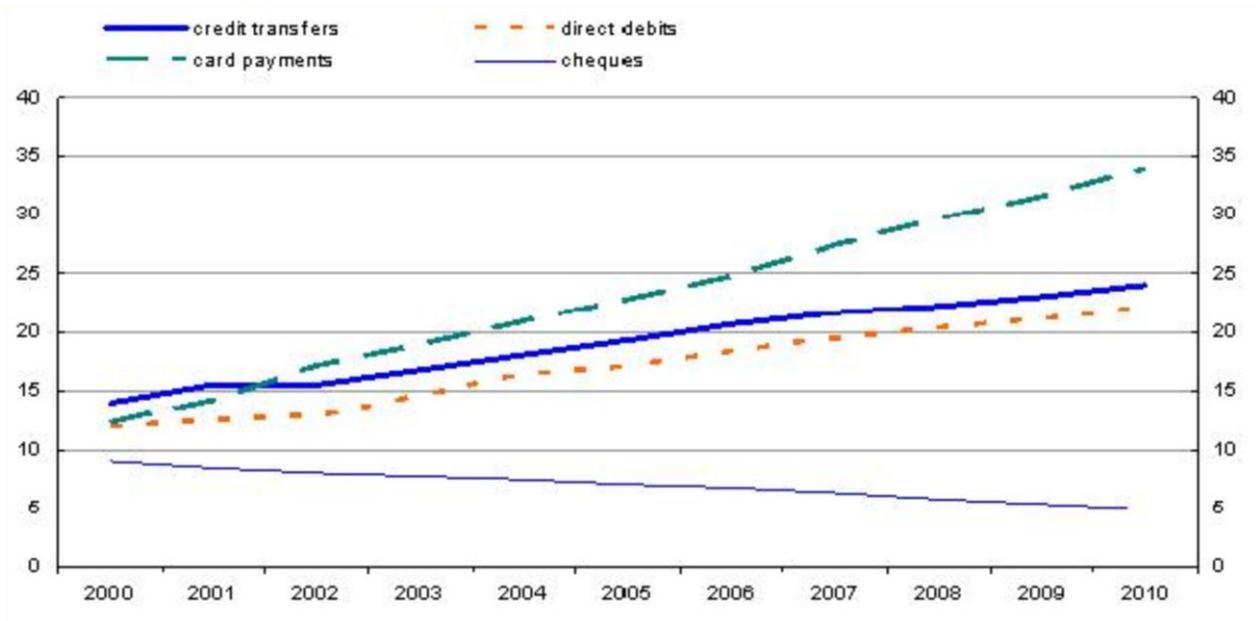
The EPC at this stage has no further comment in addition to the introduction and responses supplied above.



Annex

2000 - 2010 statistics on non-cash payments in EU

(number of transactions per year in billions, estimated)



Source: ECB website