



The Consumer Voice in Europe

Interchange fees for card-based payment transactions

Proposal for a Regulation
BEUC position

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Summary

BEUC welcomes the Commission legislative proposal which aims to shake up the European retail payments market, improve competition and achieve a true single market for payments.

BEUC position on the Commission proposal is as below:

Scope: BEUC supports the Commission proposal, which should, however, follow a minimum harmonisation approach. Member States should have an option to apply this Regulation to the proposed exemptions.

Interchange fee caps: Although BEUC supports the proposed caps (0.2% and 0.3%), which Regulation should, however, not prevent Member States from maintaining or introducing lower caps or measures of equivalent object or effect through national legislation.

Prohibition of circumvention: Competent authorities should prevent circumvention of this Regulation through possible cross-border non-EU issuing of cards.

Co-badging and choice of payment application: When entering into a contractual relationship with his PSP, the consumers should be free to decide whether or not he needs two or more different brands of payment instruments on his card, telecommunication, digital or IT device. In addition, as proposed by the Commission, the choice of the payment brand at the point of sale should belong to the consumer.

Steering rules: BEUC is in favour of an EU-wide ban on surcharges.

BEUC supports the Commission proposals on **licensing, separation of payment card scheme and processing entities, unblending and honour all card rules.**

Sanctions: The European Banking Authority should be in charge of issuing guidelines to ensure sanctions are effective, proportionate and dissuasive.

Settlement, out of court complaints and redress procedures: PSPs should be required to adhere to one or more alternative dispute resolution (ADR) bodies.

Retail payments play an important role in consumers' everyday lives. From 1 February 2014 all national credit transfers and direct debits in Euro will fully switch to SEPA payments¹. This is a first step towards a single market, as standardised credit transfers and direct debits offer huge potential for the development of alternative payment solutions. However, much still needs to be done. Currently, from an end-user's point of view, the European retail payments market is still fragmented. Huge differences remain across Member States in terms of choice of payment options, their convenience, price and safety. In a few countries, payment services are cheap and efficient, and consumers have a wide range of choice and channels to pay their bills, pay for face-to-face and online shopping, transfer money between individuals, etc. Yet, in many other countries the market is less dynamic and many opportunities remain untapped. As for cross-border payments within the EU, especially remote payments, competition is even more restricted and is often limited to credit cards.

One of the main causes of market fragmentation, as identified in the Commission Green Paper "Towards an integrated European market for card, internet and mobile payments", is the business model for card payments of the two dominant card schemes Visa and MasterCard². More specifically, it is about the so-called Multilateral Interchange Fees (MIF), which have been subject of heated debate in many parts of the world over the past years.

The EU card payments market is overall dominated by Visa and MasterCard: in 2008 their respective market share in issuing was 41.6% and 48.9%³. Many Member States also still have a national debit card scheme, e.g. Bancontact in Belgium, Dankort in Denmark, PIN in the Netherlands. Yet, their market share is gradually shrinking and over the past few years several national debit cards disappeared from the market (e.g. in Finland, Ireland, Luxembourg, UK) to the benefit of the international card schemes. This indicates that banks switch their customers to higher MIF-generating cards. It's worth mentioning here that national debit cards are cheaper, for both consumers and merchants, than international cards.

The levels of MIFs vary across Member States and their rates are being defined either by the card schemes or collectively by banks, i.e. there is no competition on MIFs⁴. Furthermore, smaller retailers usually incur even higher fees than those published by the card schemes, because they have no negotiation power. Because of MIFs the merchants' cost structure remains essentially opaque and is ultimately paid by all consumers, including those who use cash, through an increase in the price of goods and services.

¹ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009

² See BEUC response to Commission consultation on the Green Paper "Towards an integrated European market for card, mobile and internet payments", 2012: <http://beuc.eu/Content/Default.asp?PageID=2143>

³ Commission impact assessment accompanying this proposal for Regulation

⁴ For more information, please refer to BEUC factsheet on Multilateral Interchange Fees, April 2013: <http://beuc.eu/Content/Default.asp?PageID=2143>

Banks are interested in maintaining the MIF system and promote the use of cards which generate high MIFs. Thus, they are uninterested in the development of more efficient alternative payment solutions, and as keepers of consumers' accounts banks are able to prevent market entry of new players (both card and non-card solutions).

This market condition can be considered a market failure and requires regulatory intervention. EU and national competition authorities have long focused on the MIF issue. As a result, the card schemes have taken temporary commitments to reduce their fees: in 2009, MasterCard offered to reduce its cross-border MIFs to 0.2% for debit cards and 0.3% for credit cards; in 2010, Visa offered to cap its debit card MIFs at 0.2%. More recently, Visa Europe proposed to cap the yearly weighted average of its intra-EEA credit card MIFs at 0.3%. In May 2012, the General Court confirmed the Commission decision prohibiting MasterCard's cross-border consumer card MIFs. At national level, the French Competition Authority, for instance, made binding the commitments from the Groupement des Cartes Bancaires (the domestic debit card scheme) on 7 July 2011 to reduce its MIFs to levels equivalent to the ones agreed by MasterCard and Visa for their cross-border transactions. Proceedings are on-going in a number of other Member States, including in the UK, Germany and Italy⁵.

We believe that competition enforcement cannot be the only instrument to address the abovementioned issues. Indeed, the lack of a clear regulatory framework has led to further market distortion and monopoly situation. As an example we would like to highlight the situation in Hungary. In December 2010, Visa Europe has taken the commitment to cap at 0.2% the weighted average MIF for consumer debit cards. This cap applied to cross-border transactions and to local transactions in EEA countries where MIFs are being set by Visa Europe (Belgium, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, and Sweden). On the other hand, MasterCard's commitment in 2009 to reduce consumer debit card MIFs to 0.2% covered only cross-border MIFs. However, in Hungary their debit card MIFs were much higher (around 0.6%). As a result, most banks have switched their customers from Visa to MasterCard and Visa has lost 45% of its market share and even considered exiting the Hungarian market⁶. In order to remedy this situation, Hungary's Economy Minister has submitted a draft law to Parliament on 30 August, which also includes a cap on interchange fees. He seeks to limit the interchange fee at 0.2% on debit cards and at 0.3% on credit cards as of 1 January 2014⁷.

BEUC welcomes the Commission legislative proposal which aims to shake up the European retail payments market, improve competition and achieve a true single market for payments.

⁵ Commission Impact Assessment accompanying this proposal for Regulation

⁶ <http://www.budapesttimes.hu/2013/04/27/fees-for-thought/>

⁷ http://www.portfolio.hu/en/economy/hungary_economist_adopts_eu_proposal_for_interchange_fee_cap.26556.html

Opponents (mainly banks and international card schemes) argue the proposed legislation will adversely affect consumers through higher cardholder fees paid by consumers to their banks. In particular MasterCard, starting in 2012, launched an aggressive and misleading campaign against changes to their business model. MasterCard has financed studies in Spain, UK to persuade public opinion that the MIF legislation will have negative consequences for consumers. They also paid for advertising in newspapers and magazines (e.g. in France), in which trade unions claimed that consumers had to loose from MIF reform.

Yet, those allegations are not confirmed by publicly available data. In Spain, the MIF reform was carried out in 2001-2009 and MIF caps were made binding by public authorities. The main finding of the study financed by MasterCard is that over the past few years cardholder fees have registered significant increases. However, as reported by BEUC's Spanish members, during the same period prices of all bank services have increased, which is most likely related to the financial and economic crisis in Spain and mismanagement of banks rather than the MIF reform. In addition, evidence shows that as a result of the reform, in the period 2001-2008 card issuance and acceptance (volume and value of transactions) in Spain considerably increased⁸. In general, in countries where MIF do not exist or are low, card acceptance by merchants is high, including small amount card transactions, e.g. the Netherlands, Norway, Denmark, Belgium and Switzerland. On the other side, in countries such as Hungary, where interchange fees are high, merchant acceptance is lagging far behind card issuance⁹. In Belgium, from January 2012, Bancontact MIFs for small amount transactions have been reduced in order to incentivise merchants to accept small amount card payments¹⁰. Increased card acceptance means higher MIF revenues for card issuing banks and card schemes and less cash withdrawals from ATMs. As for every ATM transaction card issuing banks pay a MIF to ATM acquiring banks, fewer cash withdrawals translate to cost savings for banks.

BEUC position on the Commission proposal is as below:

Scope: BEUC supports the Commission proposal, which should, however, follow a minimum harmonisation approach. Safeguards need to be taken with regard to the proposed exemptions, i.e. commercial cards, three party schemes, and cash withdrawals at ATMs. Member States should have an option to apply this Regulation to the aforementioned transactions.

Interchange fee caps: Although BEUC supports the Commission proposal, the proposed caps (0.2% and 0.3%) should not harm the well-functioning national markets, and more specifically, cheap and efficient national debit card schemes. This Regulation should not prevent Member States from maintaining or introducing lower caps or measures of equivalent object or effect through national legislation.

Prohibition of circumvention: In addition to the Commission proposal, BEUC suggests that the competent authorities prevent circumvention of this Regulation

⁸ Commission impact assessment accompanying this proposal for Regulation

⁹ Idem

¹⁰ <http://www.retaildetail.be/nl/f-belgique/bgq-general/item/13519-atos-r%C3%A9duit-les-tarifs-de-paiements-%C3%A9lectroniques-pour-petits-montants>

through possible cross-border non-EU issuing of cards. The Commission estimates that annual MIF involved in intra-regional card transactions (i.e. the card issued outside the EU is used for payments within the EU) is around €0.5 billion. The competent authorities should monitor the market to reveal a possible arbitrage by market actors and prevent such attempts.

Co-badging and choice of payment application: When entering into a contractual relationship with his PSP, the consumers should be free to decide whether or not he needs two or more different brands of payment instruments on his card, telecommunication, digital or IT device. In addition, as proposed by the Commission, the choice of the payment brand at the point of sale should belong to the consumer.

Steering rules: BEUC is in favour of an EU-wide ban on surcharges. We do not oppose other steering practices, providing they are fair and do not create a reverse surcharge.

Licensing: BEUC supports the Commission proposal. Competition in the acquiring market has direct impact on consumers as all the costs are ultimately borne by consumers. The competent authorities should ensure the removal of all technical (compatibility of technical standards across Member States) and business obstacles (application of the acquirer's country MIF rather than the merchant's country MIF) to cross-border acquiring.

BEUC supports the Commission proposals on **separation of payment card scheme and processing entities, unblending and honour all card rules.**

Sanctions: The European Banking Authority should be in charge of issuing guidelines to ensure sanctions are effective, proportionate and dissuasive.

Settlement, out of court complaints and redress procedures: PSPs should be required to adhere to one or more alternative dispute resolution (ADR) bodies. It is insufficient that an appropriate ADR scheme is merely available - if business do not subscribe to the procedure, consumers are still left empty-handed.

From a consumer point of view, impact of the MIF Regulation must be assessed against the following non-exhaustive list of criteria:

- Wider choice of means of payment, both for face-to-face and online payments;
- Emergence of a new European card scheme(s);
- Emergence of alternative online means of payment at the EU scale, e.g. online banking-based e-payments;
- Better national and cross-border acceptance of different means of payment;
- MIF savings passed on to consumers via lower prices of goods and services. The Commission provides that *"...consumers might fail to see visible retail price decreases resulting from action on IFs. In spite of merchants' savings, isolating the impact of a specific cost element on the overall pricing policy of a retailer is difficult: many other factors might play a role in the evolution of prices. Besides, the level of competition in the relevant retail market segment impacts the degree of pass-through of retail savings to consumers. It can however be considered that the pass on of savings (decrease in Interchange*

*Fees) to consumers is more likely coming from retailers than the pass on of interchange fees from banks to consumers, as competition is fiercer, the retail sector is less concentrated, pricing to consumers is more transparent, and there is no bundling.*¹¹ Yet, a recent US study estimates that, as a result of debit card MIF reform, in 2012 US merchants passed along to consumers 69% of their cost savings¹².

- In addition, cardholder fees and prices of other financial services must be monitored by the relevant authorities in order to prevent banks from charging consumers higher fees to recoup their lost MIF revenues. This should not be possible in a competitive environment. In this respect, the pending Directive on Payment Accounts (comparability of fees, account switching, and access to a basic account) is crucial to enable consumers to compare tariffs of different PSPs and easily switch providers.

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¹¹ Commission impact assessment accompanying this proposal for Regulation

¹² "The costs and benefits of half a loaf : The economic effects of recent regulation of debit card interchange fees", Robert J. Shapiro, Sonecon, 1 October 2013:
http://www.sonecon.com/docs/studies/Report_on_Interchange_Fees-RShapiro-October_2013.pdf