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on Competition: Sector inquiry on retail banking
(2007/2201(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Competition: Sector inquiry on retail banking (2007/2201(INI))

The European Parliament,

- having regard to the Commission Communication on the Sector Inquiry under Article 17 of Regulation (EC) No 1/2003 on retail banking (COM(2007)0033),
- having regard to the Interim report 1 of 12 April 2006 on payment cards and the Interim report 2 of 17 July 2006 on current accounts and related services,
- having regard to the Green paper on retail financial services in the Single Market (COM(2007)0226),
- having regard to the Commission Communication entitled 'A Single Market for 21st century Europe' (COM(2007)0724),
- having regard to the recent decision on Mastercard's intra-EEA multilateral interchanges fees (COMP 34/579 MasterCard),
- having regard to the Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast)¹ (Capital Requirements Directive) and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast)² (Capital Adequacy Directive),
- having regard to the Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market³ (Payment Services Directive),
- having regard to its position adopted at second reading on 16 January 2008 with a view to the adoption of a directive of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 80/102/EEC⁴ (Draft Consumer Credit Directive),
- having regard to its resolution of 11 July 2007 on the White paper on financial services policy 2005 - 2010⁵,
- having regard to its resolution of 4 July 2006 on Consolidation in the European

¹ OJ L 177, 30.6.2006, p. 1.

² OJ L 177, 30.6.2006, p. 201.

³ OJ L 319, 5.12.2007, p. 1.

⁴ Texts Adopted, P6_TA(2008)0011.

⁵ Texts Adopted, P6_TA(2007)0338.

financial services industry¹,

- having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0185/2008),
- A. whereas a well-functioning integrated financial market is a necessary precondition for the achievement of the Lisbon agenda in order to provide the European Union with the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs,
- B. considering the essential role played by retail banks in passing on, as appropriate, monetary policy conditions to the market, particularly to small and medium-sized enterprises (SMEs) and consumers,
- C. whereas in order to complete the Financial Services Action Plan and deliver its full benefits to consumers and retailers, there is a need to improve retail financial services,
- D. whereas access to basic banking services, such as opening a bank account, is a right for every citizen,
- E. considering the importance of the retail banking sector for the EU economy in terms of growth and employment and its importance for consumers and SMEs,
- F. considering the difficulties relating to the harmonisation of consumer policy in the European Union and the inherent complexity of financial products,
- G. considering the importance of EU competition policy for the completion of the internal market and the good functioning of a real level playing field for all actors,
- H. Whereas the diversity of legal models and business objectives of the financial entities in the retail banking sector (banks, savings banks, cooperatives, etc) is a fundamental asset to the EU's economy which enriches the sector, corresponds to the pluralist structure of the market and helps to increase competition in the internal market,
- I. considering the need to balance a high degree of consumer protection with the proper functioning of the internal market,

General

1. Supports the integrated approach of the Commission, which comprises supporting internal market policies with well-targeted sector inquiries; regrets, nevertheless, the timing of the sector inquiry and the fact that there has been no examination of how monetary policy conditions are passed on to the retail market and encourages the Commission to follow up its work once the Capital Adequacy, the Single European Payment Area (SEPA), the Payment Services Directives and the Consumer Credit Directive will have demonstrated their effects in practice;

¹ Texts Adopted, P6_TA(2006)0294.

2. Regrets that the sector inquiry does not take sufficient account of the specificities of the strictly regulated banking sector and the importance of culture, habits and languages in consumer choices and protection for financial products; considers that the lack of consumer mobility in the EU is often dictated by the long-term relationship of trust which is often established between bank and consumer; is concerned that the Commission's assessment of market integration builds on too few economic indicators and may consequently fail duly to reflect the characteristics of that sector;
3. Recalls that competition policy is a powerful tool for completing the internal market but that aiming for more competition should neither lead to weakened risk management in the banking sector nor endanger the stability of a particularly crucial and strategic sector of the world economy; emphasises that market and consumer confidence are both essential for the further development of financial services, and that promoting consumer information relating to financial services is necessary to strengthen the role of consumers as market participants;
4. Points out that a highly fragmented regulatory framework is an impediment to the development of the cross-border supply of banking services; supports, therefore, the Commission initiative to reopen consideration of Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services¹, which must also involve the review of the directives on electronic commerce² and electronic signatures³ in order to enable these effectively to achieve their stated aims;
5. Takes the view that even the implementation of money laundering legislation may constitute an obstacle to consumer mobility in terms, for example, of the opening of cross-border current accounts, given the varying requirements relating to identification and verification that the banks must fulfil; calls on the Commission to assess the impact on consumer mobility of the rules laid down in money laundering legislation;

Consumer mobility

6. Requests the Commission to work towards facilitating consumer mobility and to monitor Member States' progress in allowing consumers more easily to change provider, thus reinforcing healthy competition between providers; would like to see, to the greatest extent possible, no disruption of service even when closing a current account or changing provider and to avoid any costly duplication of services;
7. Urges that the simplification of financial service regulations and the dismantling of barriers to consumer mobility should not lead to lower standards of consumer protection in the Member States;
8. Recommends permitting only fully justified charges for closing accounts, if any, in order

¹ OJ L 271, 9.10.2002, p. 16.

² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

³ Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

to encourage mobility and competition; encourages the banking industry to develop best practices on swift and efficient procedures for account switching, taking into account both the duration of the procedure and the costs associated with it; is of the opinion that switching current accounts should cause no harm to consumers; opposes any unnecessary contractual links impeding consumer mobility;

9. Underlines that, as regards product-tying, a clear distinction must be made between product combinations favourable to both consumer and bank and common to all branches of the economy on the one hand, and practices resulting in unfair competition on the other;
10. Considers that access to basic financial services, such as opening a bank account, is a right and calls on the Commission to identify the obstacles to the exercise of that right and the best practices followed in the retail financial sector in that respect;

Information and transparency

11. Is of the opinion that information for consumers is fundamental for ensuring competition among banks; requests information that is of a better quality, more readable and hence accessible to consumers; is of the opinion that, for the time being, it is too often time-consuming and onerous for consumers to obtain such information;
12. Recognises that there is a tension between preventing information overload and providing consumers with sufficient information; favours information quality over quantity; calls on the Commission, therefore, to invite consumer organisations to define which information they deem to be necessary to enable consumers to make appropriate choices;
13. Requests the Commission to work towards ensuring that the industry, as a supplement to existing national provisions, provides consumers, before they open an account, with a succinct compilation detailing all costs, including closing costs, if any, in way that is comparable across the European Union; calls on the Commission to put forward legislative proposals in that respect in the event that the industry fails to respect its commitment;
14. Welcomes the Commission's study of the regulatory landscape for retail investment products and trusts that this will lead to better disclosure of costs, risks and conditions and thereby provide useful cross-border comparisons;
15. Recommends the creation of a single European standard for providing information to the customer by the supplier on their basic products, related costs and conditions in order to allow an easy and transparent comparison where tied products do not allow at the moment; calls for disclosure upon request of value chain costs of retail financial products to ensure level playing field for competition; suggests to the industry to work on the feasibility of setting up a Europe-wide research engine to allow easy and free cross-border comparison;

Consumer education relating to retail banking

16. Calls for the development of financial education programmes aimed at increasing the

awareness of consumers as regards their money-management options;

17. Supports the efforts made by the Commission and the financial services industry to raise consumers' level of knowledge about financial services products and run educational programmes in that area, as the information supplied by financial service product providers must also be understood and used by the consumer;
18. Recalls the importance of developing financial education as a complement to adequate consumer protection, especially in the field of retail banking (for instance as regards loans, mortgages, diversified and safe saving and investment); calls on the Member States and the banking sector to take and coordinate measures to raise financial literacy among citizens, including children, young people, employees and retired people, with a view to educating and empowering consumers in order to enable them to seek better, cheaper and more appropriate products and services and to foster competition, quality and innovation within the banking industry; recalls that confident investors can provide additional liquidity for capital markets;
19. Asks Member States to consider setting up an institution of independent national ombudsmen responsible for financial services;

Credits - registers and intermediaries

20. Stresses the importance of reliable credit and fraud data for banks and other credit providers, accessible on a fair and transparent basis; insists, nevertheless, on the necessity to protect consumers' personal data; requests the Commission to identify obstacles to data sharing and to make proposals for the interoperability of data registers while respecting consumers' private lives and their rights of access and rectification; considers that consumers should be informed in the event of cross-border credit data inquiries relating to them; welcomes the Commission's intention to establish a group of experts on credit histories in order to assist the Commission in the preparation of the abovementioned measures;
21. Calls on the Commission to intensify its work on credit intermediaries (agents or brokers) in order to ensure consumer protection and avoid opaque practices which are particularly damaging to more vulnerable groups of consumer; welcomes the Commission's commitment, in this context, to publish a study analysing the EU credit intermediation market, reviewing its regulatory framework and examining whether any provisions are detrimental to consumers;
22. Requests the Commission to clarify and harmonise the responsibilities and liabilities of credit intermediaries following the principle 'same business, same risks, same rules', since problems often arise in the sale, administration and enforcement of financial services agreements; points out that an undifferentiated 'one size fits all' approach would adversely affect product diversity; draws the attention of the Commission to the difference between information which has to be clear, concise, readable and cost-free and tailor-made client advisory services;

Cooperation between banks

23. Welcomes the Commission's further examination of the cooperation between banks in order to assess where such cooperation could result in economic and consumer benefits and whether it could lead to a restriction of competition; underlines, however, that cooperation between banks, for example credit institutions operating in decentralised networks, can result in economic and consumer benefits and that, therefore, a careful analysis and an unbiased approach are necessary;
24. Is of the opinion that savings and cooperative banks, as well as other credit institutions, contribute substantially to the financing of the local economy and the development of the endogenous potential of regions and facilitate access to financial services for all consumers; stresses that pluralistic banking markets and diversity of providers are pre-conditions for competition throughout the EU banking market provided that there is no distortion of competition and a level playing field is guaranteed for all market participants on the principle, 'same business, same risks, same rules';
25. Maintains that non-discriminatory cooperation between independent credit entities, which, as they are still competing with each other, is more efficient and ensures greater interoperability and variety of services to the end consumers, can help the sector to function and contribute to achieving the objectives set out in paragraph 12;

Payment systems

26. Is confident that the SEPA and the Payment Services Directive should provide solutions for the fragmentation and lack of competition identified by the sector inquiry concerning payment infrastructures; recalls that the first phase of the SEPA entered into force on 28 January 2008 and requires integrated clearing and settlement platforms, operating on the basis of the same rules and technical standards; emphasises that the access criteria to SEPA should be fair and open, and that governance should take into account all stakeholders in the system, not just financial institutions; recalls also that the Payment Services Directive provides that there should be no discrimination on access to payments systems other than that necessary to safeguard against risk and protect financial and operational stability; points out that under the principle of neutrality of Community policies, no single method of payment should be favoured over another, and the costs related to the use of the various payments systems should be transparent so that consumers can choose their method of payment in full knowledge of the facts;
27. Calls on the Commission to investigate whether the transposition of the Payment Services Directive is reducing the number of providers of payment settlement services and to take immediate steps if major providers develop a monopoly position that could reduce competition;
28. Notes that the Commission and many national competition authorities have stated on numerous occasions that multilateral interchange fees (MIFs) are not prohibited per se under Article 81 of the EC Treaty; nevertheless notes that the Commission recently focused on the compatibility of a MIF system with Community competition law; recommends that the Commission propose clear guidelines and indications to correct market imperfections; reminds the Commission of the importance of legal certainty for market participants as well as new market entrants to develop and innovate their services;

29. Believes in a strong need for better clarification concerning the methodology and rules for the management of multilaterally agreed interchange fees for card payments and for the mechanism to calculate interbanking fees for automated teller machines and non-card payments; recalls that direct debit and credit transfer schemes, such as those under SEPA, support services that are jointly offered by two payment service providers and jointly requested by two consumers, creating economic benefits thanks to so-called network effects; suggests that the Commission establish and communicate to all stakeholders the criteria for the definition by market operators of a the methodology to be used to calculate all multilaterally agreed interchange fees, of which the Commission may hence take note, in order to ensure a real level playing field and the enforcement of all competition rules;
30. Reminds the Commission that it is as important to focus on fees and prices, as it is to achieve greater transparency of the industry in communicating to the consumers the characteristics of payment products and services and their rights and obligations as users, thus stimulating more competition in the market;

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31. Instructs its President to forward this resolution to the Council, the Commission, the European Central Bank and the Committee of European Banking Supervisors.

EXPLANATORY STATEMENT

General considerations

It is to be welcomed that the Commission, in its sector inquiry, has focused its attention on the level of efficiency and functioning of a sector such as retail banking, which is particularly sensitive since it is targeted at families and small and medium-sized enterprises, and because it is still today the most important banking sub-sector, accounting for over 50% of total EU activity in terms of gross income.

The Commission inquiry may be questionable in terms of some of the methodological options it adopts in comparing various market realities and national systems, but it paints a very accurate and realistic picture, clarifying how the market operates, noting its main defects and considering how to remedy them through the competition rules.

The sector inquiry noted some concerns, fully shared by your rapporteur, with regard to competition in the payment systems industry, especially card payment systems, to credit registers and, above all, to the setting of prices and policies by bank operators. As regards the activities of cooperative and savings banks, the Commission underestimates some of the typical features of such banks, such as their presence in areas considered to be outlying, the degree to which they are rooted in the territory and their social role. It has to be said that the latter features are particularly important also in terms of the efficiency of the services.

The conclusions of the sector inquiry clearly show the need to create a more competitive environment among service providers, especially those operating on the retail markets, and it is by attaining these objectives that European consumers will be able to benefit fully from the internal market.

Your rapporteur believes that simple self-regulatory measures for the banking industry are an inadequate tool for improving the efficiency of retail services. That is why a European legislative initiative would be desirable, to ensure market efficiency and give consumers better bargains. The Commission should therefore adopt the appropriate measures, both by enforcing competition law and by taking policy initiatives.

1. - Banking services

Banking services are a special case in that the relationship of trust between banks and their customers can weaken the consumer's drive to trigger competition mechanisms; it also increases companies' market power, which, in some cases, determines higher prices. The problem is that, in exploiting this position, the banks can take commercial measures which make it expensive for clients to end their relationship with the bank or which impede the client's ability to understand and compare the features and prices of the services offered on the market.

The fact that in this same market there are a host of current-account holders who have hardly any information, or none at all, appears to have allowed the banking industry, in some countries, to take advantage of this information asymmetry.

That is why it is clearly important to work at European level with a view to stepping up financial literacy initiatives. It is also through financial literacy schemes and greater

transparency that demand can become more mobile, thereby altering the current balance between supply and demand which is a typical feature of the banking services market. In this regard your rapporteur supports the action being taken by the Commission on financial education, through its publication of Communication COM (2007) 0808 of 18 December 2007.

It is important that consumers who wish to change supplier are not discouraged or hampered in any way from doing so. A market in which consumers are informed and mobile means that financial establishments need to compete in order to attract and retain them.

1(a) - Tying policies

The use of current accounts by banks as a strategic tool for building a relationship with the account-holder, based on numerous other services, often proves to be a practice which is not conducive to mobility.

When many other services are linked to a current account, only in theory can such an account be closed immediately or within a few days, since in actual fact it involves a procedure that is sometimes complex and very lengthy. In some EU countries, when a client closes a current account, banks require that direct debit payments for utility bills be cancelled and ATM cards and credit cards returned. This can cause many difficulties for account-holders, discouraging them from changing bank. It would therefore be helpful, when switching banks, if provision could at least be made for a transitional phase which did not involve any duplication of costs, or periods in which an account-holder was left without a banking service, for as long a period as necessary to complete the transfer.

We must therefore ensure that the costs (economic, temporal and administrative) of switching current accounts from one bank to another are eliminated, or at least reduced to minimum levels, by removing all unnecessary contractual or *de facto* ties between current accounts and other services, such as loans, savings accounts, securities and insurance policies.

In other words, we need to develop mechanisms which make current accounts portable.

1(b) - Information for consumers

To improve the efficiency of the retail banking services industry, your rapporteur is convinced of the need to increase consumers' ability to take decisions that are appropriate to their financial circumstances. This calls for action on various levels:

- a timely supply of clear and adequate information;
- high-quality advice;

and, above all,

- equal conditions of competition between products with similar characteristics.

If consumers are informed, they are in a better position to choose the best bargains for their requirements, independently of the supplier of financial services.

While simply disseminating information may be a prerequisite, it is not sufficient for competitive balances to be achieved; what is essential is the quality of that information and whether it can be used by consumers in a practical manner. If the information to the consumer is not satisfactory and the costs of searching for information so high as to exceed the expected benefits of that information, consumers will not be encouraged to do any research. From the studies carried out by the Commission and by a number of national supervisory authorities, it has emerged that many information sheets do not set out the conditions governing bank transfers, ATM use, charges for withdrawing cash from banks other than one's own, etc. There is therefore no comprehensive document setting out the regular items of expenditure for services typically used in the handling of a current account. That is why concise information needs to be given on an annual basis to current account-holders on the actual expenditure they have incurred in running the account and how it has varied since the previous year. This could possibly be done in a standardised way at European level, so that the economic conditions applied by banks are effectively comparable throughout the EU, with a consequent benefit for consumers in terms of choice. It would also be desirable to develop sources of information – genuine search engines – that are independent of the banking system and which would make it easier to compare the costs of services offered by various banks in Europe.

2 - Payment systems

The Commission's sector inquiry has pinpointed a number of serious competition problems on the European payment cards market.

Your rapporteur is of the opinion that many of the difficulties identified by the inquiry will be remedied by the introduction of the SEPA (Single European Payment Area) and the application of the directive on payment services. This is a considerably important sector. In 2005 alone, the total value of purchases made in the EU by payment card was over EUR 1 350 billion.

With regard to the card payment networks, SEPA offers the potential to eliminate many of the inefficiencies highlighted by the inquiry, such as the costs of bank transfers or the time-frame for transferring money. For payment cards, SEPA should offer consumers a broader choice between service providers, thereby strengthening competition in this highly concentrated market in Europe.

2(a) - Multilateral Interchange Fees

Multilateral Interchange Fees (MIFs) are another matter altogether.

Your rapporteur hopes the Commission will issue some sort of guidelines which the market can adopt when drawing up such agreements, so that they can be deemed to be non-restrictive. It would also be desirable for antitrust authorities to begin a process of consultation, similar to that which is now customary in all European regulatory procedures, so that the MIF calculation methodology, which has hitherto been applied in various circumstances in sometimes very different ways, can be defined by the Union and finally become uniform at European level. Once this calculation methodology has been defined, it should be applied uniformly to all payment circuits, be they domestic, pan-European or international. A similar solution, as an equal instrument, would be for each circuit to have its own MIF, the level of which would be determined by the efficiency of the circuit. This would create competition between the circuits themselves and would pave the way for the success of

the most efficient circuit.

3 - Credit registers

Lastly, your rapporteur fully shares the Commission's concerns over access to credit registers in cases in which the management of those registers runs counter to the competition rules. The principle of non-discriminatory mutual access to credit registers is a principle which must be respected throughout Europe.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	6.5.2008
Result of final vote	+: 43 -: 0 0: 1
Members present for the final vote	Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Jonathan Evans, Elisa Ferreira, Jean-Paul Gauzès, Robert Goebbels, Donata Gottardi, Benoît Hamon, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Othmar Karas, Piia-Noora Kauppi, Wolf Klinz, Christoph Konrad, Guntars Krasts, Kurt Joachim Lauk, Andrea Losco, Astrid Lulling, Florencio Luque Aguilar, Gay Mitchell, John Purvis, Alexander Radwan, Bernhard Rapkay, Antolín Sánchez Presedo, Margarita Starkevičiūtė, Ivo Strejček, Ieke van den Burg, Cornelis Visser
Substitute(s) present for the final vote	Katerina Batzeli, Jorgo Chatzimarkakis, Dragoş Florin David, Valdis Dombrovskis, Harald Ettl, Salvador Garriga Polledo, Ján Hudacký, Alain Lipietz, Diamanto Manolakou, Gianni Pittella, Bilyana Ilieva Raeva, Andreas Schwab