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REPORT

on ‘Towards an integrated European market for card, internet and mobile payments’
(2012/2040(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on ‘Towards an integrated European market for card, internet and mobile payments’

(2012/2040(INI))

The European Parliament,

- having regard to Articles 26 and 114 of the Treaty on the Functioning of the European Union,
- having regard to the Commission Green Paper of 11 January 2012 entitled ‘Towards an integrated European market for card, internet and mobile payments’ (COM(2011)0941, hereinafter ‘the Green Paper’),
- having regard to the Commission Communication of 11 January 2012 entitled ‘A coherent framework for building trust in the Digital Single Market for e-commerce and online services’ (COM(2011)0942),
- having regard to the public consultation organised by the Commission on the Green Paper from 11 January 2012 to 11 April 2012,
- having regard to the conference on card, mobile and internet payments, organised by the Commission on 4 May 2012,
- having regard to 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 924/2009¹,
- having regard to the Information Paper of March 2012 on competition enforcement in the payments sector, compiled by the European Competition Network’s Banking and Payments Subgroup²,
- having regard to the European Central Bank’s recommendations of April 2012 for the security of internet payments³,
- having regard to the European Data Protection Supervisor’s (EDPS) response of 11 April 2012 to the Commission public consultation on the Green Paper “Towards an integrated European market for card, internet and mobile payments”⁴;
- having regard to European Economic and Social Committee’s working document of 22 May 2012 on the Green Paper (INT/634),

¹ OJ L 94, 30.3.2012, p. 22.

² http://ec.europa.eu/competition/sectors/financial_services/information_paper_payments_en.pdf.

³ <http://www.ecb.europa.eu/pub/pdf/other/recommendationsforthesecurityofinternetpaymentsen.pdf>.

⁴

http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2012/12-04-11_Mobile_Payments_EN.pdf

- having regard to the Commission decision of 24 July 2002 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement in Case No COMP/29.373 Visa International¹,
 - having regard to the Commission decision of 19 December 2007 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement in Cases Nos COMP/34.579 – MasterCard, COMP/36.518 – EuroCommerce and COMP/38.580 – Commercial Cards²,
 - having regard to the General Court’s judgment of 24 May 2012 in the case MasterCard and others v. Commission³,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0304/2012),
- A. whereas the European market for card, internet and mobile payments is at present still fragmented across national borders and only a few big players are able to get acceptance by merchants and to operate on a cross-border basis;
 - B. whereas the dominant position of two non-European card payment service providers can lead to excessive and unjustified fees for both consumers and merchants, in which their respective banks (the so called issuing and acquiring banks) take advantage of this situation, as stated by the Commission in the Green Paper.
 - C. whereas the development and wider use of card, internet and mobile payments may also help e-commerce in Europe to grow in size and in diversity;
 - D. whereas the share and variety of internet and mobile payments have been steadily growing in Europe and worldwide;
 - E. whereas, due to technical progress, cards payment systems may progressively be replaced by other electronic and mobile means of payment;
 - F. whereas the Green Paper does not tackle the costs and societal impacts of cash or cheque payments in comparison with card, internet and mobile payments, thus preventing a comparative analysis of the economic and welfare costs and societal impacts of payments by cash or cheque;
 - G. whereas the current business model for card payments allows excessive levels of multilateral interchange fees (MIFs) which seem sometimes to exceed the actual cost of financing the system, and which constitute a major barrier for to competition in the payments market;

¹ OJ L 318, 22.11.2002, p. 17.

² http://ec.europa.eu/competition/antitrust/cases/dec_docs/34579/34579_1889_2.pdf; summary decision published in OJ C 264, 6.11.2009, p. 8.

³ Case T-111/08, *MasterCard and Others v Commission*, not yet reported.

- H. whereas cross-border acquiring is an option currently open only to a limited number of players, and whereas this arrangement could expand the choices that merchants can make and thus increase competition and reduce costs for consumers;
- I. whereas surcharges for the use of card payments are not allowed in some Member States but are widely in use in some others, and whereas excessive surcharges have been to the detriment of consumers as payment providers often do not provide alternative payment methods to payments with surcharges;
- J. whereas the Single Euro Payments Area (SEPA) Cards Framework requires customers to be able "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";
- K. whereas successful SEPA migration can be expected to give an impetus to the development of innovative pan-European means of payment;

The different payment methods

1. Commends the Commission for providing the Green Paper, finds the considerations and questions posed therein to be highly relevant, and fully agrees with the listed aims to get more competition, more choice, more innovation and more payment security as well as customer trust;
2. Agrees with the Commission that it is necessary to distinguish between three different product markets in the sphere of four-party bank card systems – first of all a market in which the various card systems compete to get financial institutions as their issuing or acquiring customers; then a first 'downstream' market, in which the issuing banks compete for the business of the bank card holders ('the issuing market'); lastly a second 'downstream' market, in which the acquiring banks compete for the merchants' business ('the acquiring market') – and considers that free competition should be enhanced at every market;
3. Notes the importance of market-based self-regulation in cooperation among all stakeholders, but recognises that self-regulation may not achieve desired outcomes in an acceptable timeframe due to conflicting interests; expects the Commission to come forward with necessary legislative proposals in order to help ensure a true SEPA for card, internet and mobile payments, and notes in this respect the importance of the forthcoming review of the Payment Services Directive;
4. Underlines the need for a clear and comprehensive vision of a SEPA for cards, internet and mobile payments and for the provision of such guidelines and timelines as are needed to ensure the basic goal of eliminating any difference between cross-border and national payments;
5. Underlines the need to advance towards a real-time clearing and settlement system, which

technically is already within reach and used for some payments, and stresses that moving to a real-time economy should be an important goal for the whole SEPA and that an advanced real-time interbank system would need to have SEPA-wide reachability;

6. Is therefore of the opinion that all national card, mobile and internet payment schemes should join or turn themselves into a pan-European SEPA-compliant scheme, so that all card, mobile and internet payments would be accepted everywhere in the SEPA, and that a necessary period should be suggested by the Commission for this transition;
7. Notes that all terminals should be able to accept all cards and fulfil interoperability requirements and, therefore, that any technical barriers resulting from differences in the functionality and certification requirements for terminals should be removed, as common standards and rules, and standardised terminal software, would increase competition;
8. Believes that a self-regulatory approach for the integrated European market for payments is not sufficient; calls on the Commission to take legislative action to ensure payment security, fair competition, financial inclusion, protection of personal data and transparency for consumers;
9. Calls on the Commission to reform the SEPA governance to ensure that the decision-making process is democratic, transparent and serving the public interest; notes that this requires a more active and leading role of the Commission and the European Central Bank (ECB) in the SEPA governance, as well as balanced representation of all relevant stakeholders in all SEPA decision-making and implementing bodies, guaranteeing sufficient involvement of end users;
10. Expresses concern at any unduly tight regulation of internet and mobile payment markets at this stage because such payment methods are still in the process of development; considers that any regulatory initiative in this field runs the risk of giving undue emphasis to already existing payment instruments, and may thus deter innovation and distort the market before it has been developed; asks the Commission to adopt an appropriate approach to any future internet and mobile payment methods in a future proposal, ensuring a high level consumer protection, especially for vulnerable consumers;
11. Points out that while electronic payments are playing an increasingly important role in Europe and in the world, serious obstacles remain for a fully and effectively integrated, competitive, innovative, safe, transparent and consumer-friendly European digital single market with regard to these forms of payments;
12. Notes that in the current crisis it is essential to take action to boost economic growth and job creation and restimulate consumption, that while the digital market provides a great opportunity to achieve these objectives, the EU must for this purpose be in a position to establish a full digital internal market, and that it is vital to demolish existing obstacles on the one hand and boost consumer confidence on the other; believes, in this connection, that the existence of a neutral and safe European single market for card, internet and mobile payments, facilitating free competition and innovation, is essential for the achievement of a genuine single digital market and could make a major contribution to increasing consumer confidence;
13. Notes that the development of transparent, safe and effective payment systems in the

European digital market is essential in order to ensure a genuine digital economy and facilitate crossborder e-commerce;

14. Points out that a safe, trustworthy and transparent European framework for electronic payments is essential for the launch of a digital single market; emphasizes the importance of information campaigns for consumer awareness regarding the options available on the market and the conditions and requirements for safe electronic payments, and considers that such campaigns should be put in place at EU level, also in order to overcome the frequently ungrounded worries about these forms of payment; believes that, in this regard, consumer-friendly contact points would enhance trust in remote payments;
15. Stresses that, in this connection, measures should be taken to put an end to the frequent discrimination of European consumers whose payments for crossborder online transactions are not accepted because of their provenance;
16. Regrets that, in the current situation, most payment costs are non-transparent, pointing out that those that do not use expensive payment methods still cover their costs; recalls that each payment method has its costs; asks the Commission, therefore, also to consider in the future the cost, peculiarities and societal impacts of cash and cheque payments, for all market players and consumers, as compared to other payment methods; recalls that all Europeans should have access to basic banking services; stresses that actions towards common technical standards shall be taken in the light of the importance, effectiveness and sufficiency of the standards currently in place in Europe;

Standardisation and interoperability

17. Believes that further work on common technical standards, on an open access basis, could enhance the competitiveness of the European economy and the functioning of the internal market, but would also foster interoperability and bring security-related advantages in the form of common security standards, to the benefit of both consumers and merchants;
18. Notes that for internet and mobile payments, most standards should be the same as for current SEPA-payments, but new standards are needed for security and identification of customers, and to provide interbank online real-time delivery, and underlines that developing new standards is not enough and that coordinated implementation is at least as important;
19. Stresses that standardisation should not impose barriers to competition and innovation, but should instead remove obstacles to ensure a level playing field for all parties; recommends, therefore, that standards must be open to allow for innovation and competition in the market, as mandating a single or closed standard would limit market development and innovation, impose a disproportionate restriction, and would not be conducive to a competitive and level playing field; notes, however, the Commission's antitrust investigation into the standardisation process for payments over the internet (e-payments) undertaken by the European Payments Council (EPC);
20. Notes that basically all payment transactions contain the same kind of data, and stresses that there should be safe data communication for any payment allowing straight-through, end-to-end real-time processing; sees the advantages of all systems using the same

message format, and recalls that the most obvious choice is the one used for credit transfer and direct debit as defined in the Annex of the SEPA End-date Regulation (i.e. ISO XML 20022); recommends that the same message format should be used in all transaction data communication from terminal to customer and carry all relevant information;

21. Underlines that, given the fast growing but, at present, immature phase of market development for electronic and mobile payments, imposing mandatory standards in these key areas for the enhancement of the digital single market in Europe would entail the risk of negative effects for innovation, competition and market growth;
22. Points out that according to the Commission's feedback statement of the public consultation on the Green Paper, the implementation of the developed standards often represents a major challenge; calls on the Commission to look into possibility of enforcement mechanisms, such as the setting of migration end dates;
23. Notes that ATM cash withdrawal fees outside the payment service user's (PSU's) own bank and card scheme are often excessive in many Member States and should be more cost-based SEPA-wide;
24. Stresses that any standardisation and interoperability requirements should be aimed at enhancing the competitiveness, transparency, innovative nature, payment security and effectiveness of the European payment systems, to the advantage of all consumers and other stakeholders; stresses that any standardisation requirements should not impose barriers through unnecessary differences with the global market; believes, furthermore, that common standards should be sought at global level as well, in close cooperation with the key economic partners of the EU;
25. Asks the Commission to assess the possible ways to promote new entrants into the card market, for example by taking into consideration a common payment infrastructure for all transactions regardless of the card provider;
26. Notes that the separation of payment infrastructures from payment schemes could increase competition as smaller players would not be blocked out due to technical constraints; stresses that payment service providers (PSPs) should be free to select any combination of issuing and acquiring services available within the payment schemes on the market, and that payment infrastructures should process neutrally transactions of different parallel payment schemes for similar instruments;
27. Notes that care must be taken to ensure that any such measures always comply with the principles of free and fair competition, and free market entry and access, taking account of future technological innovations in this sector, so as to allow the system to adapt to future developments and to promote and facilitate innovation and competitiveness in a consistent way;

Governance

28. Calls on the Commission to propose a better SEPA governance, covering the organisational setup related to the development of the main features of payment services and of the implementation of the requirements which need to be met, and allowing the

development of technical and security standards to be organised separately in support of the implementation of the related legislation; calls for a more balanced representation of all stakeholders in the further development of common technical and security standards for payment schemes; urges the Commission to answer its previous calls for reform of SEPA governance so as to ensure better representation of payment services users in the decision-making and standard-setting process; notes that these stakeholders include – but are not necessarily restricted to – the EPC, consumer organisations, merchant organisations and large retail chains, the European Banking Authority (EBA), the Commission, experts in various fields, non-banking payment service providers, and mobile, internet and card commerce and mobile network operators; calls on these stakeholders to arrange their work under a new governance structure where the SEPA Council has a role; considers that the SEPA Council should be assisted by various technical committees, or "task forces" for e-payment, m-payment, cards, cash and other standardisation issues, and by ad hoc working groups; recalls the Commission's commitment, in the declaration on SEPA governance on the adoption of Regulation (EU) No 260/2012, to come up with proposal before the end of 2012; calls on European standardisation bodies such as the European Committee for Standardisation (Comité Européen de Normalisation, CEN) and the European Telecommunications Standards Institute (ETSI), in cooperation with the Commission, to play a more active role in standardising card payments;

29. Recognises in this connection that the SEPA is a cornerstone for the creation of an integrated EU payments market and should serve as basis for developing such a market and for making it more innovative and competitive;
30. Considers that enforcement of the rules on electronic payments is often difficult, inadequate and variable in Europe, and that stronger efforts should be made to ensure a proper and uniform enforcement of the rules;
31. Affirms that a self-regulatory approach is not sufficient; considers that the Commission and the ECB, in cooperation with the Member States, should take a more active and leading role, and that all relevant stakeholders, including consumer associations, should be properly involved and consulted in the decision-making process.
32. Considers it likely that there will be a growing number of European companies whose activities are effectively dependent on being able to accept payments by card; considers it to be in the public interest to define objective rules describing the circumstances and procedures under which card payment schemes may unilaterally refuse acceptance;
33. Considers it important to strengthen the SEPA governance and to give the renewed SEPA Council a stronger role, and that this new governing body should consist of representatives of the main relevant stakeholders and be established in such a way as to provide for democratic control through the Commission and other EU authorities; proposes that a renewed SEPA Council should lead the work, identify a time schedule and work plan, decide on the priorities and major issues, thus arbitrating disagreements between stakeholders; stresses that democratic control should be ensured through the Commission, with the ECB and the EBA having prominent roles;
34. Welcomes the consultation being undertaken by the Commission with stakeholders as part of the Green Paper on SEPA governance, in accordance with recital 5 of Regulation

260/2012, and is looking forward to the proposal the Commission intends to put forward on the subject at the end of this year; underlines that the immediate priority of all SEPA stakeholders must be the preparation for SEPA migration in accordance with the conditions laid down by Regulation 260/2012, so as to ensure a smooth transition from the use of national to pan-European payment schemes;

Cross-border acquiring

35. Points out that further standardisation and alignment of practices, to overcome technical barriers and national settlement and clearing requirements, would contribute to the further promotion of cross-border acquiring, an arrangement which would increase competition and hence the choices available for merchants, and which could result in more cost-efficient payment methods for customers; believes that merchants should be better informed about the cross-border acquiring possibilities;
36. Urges that solutions to further facilitate cross-border acquiring be actively sought, in view of its advantages to the internal market; expresses concern at existing national, legal and technical barriers, such as some licensing terms, which should be removed in order for a non-domestic SEPA-compatible acquirer not to be treated differently to a domestic acquirer in that country;
37. Stresses that there should be no major differences between legislation of various payment accounts, and that the payer should be able to make an internet or mobile funds transfer to any payee whose account is in any SEPA-connected financial institution;
38. Underlines that all authorised PSPs should have the same access right to clearing and settlement facilities, if they have adequate risk management procedures, fulfil minimum technical requirements and are deemed to be sufficiently stable so that they do not pose any risk, i.e., if they are subject to essentially the same relevant requirements as banks;

Multilateral Inter-change Fees (MIFs)

39. Recalls that according to the European Court of Justice ruling on the "Mastercard case" of 24 May 2012, the MIF may be considered anticompetitive, and asks the Commission to propose how this ruling should be taken into account in regulating the business models for card, mobile or internet payments.
40. Notes that current MIF revenues are in many cases too high relative to the costs they should cover ; points out that there might be a need to balance different payment charges in order to ensure that cross-subsidising practices would not promote inefficient instrument choices, and calls on the Commission to ensure by regulation that MIFs no longer distort competition by creating barriers to new market entrants and innovation; calls on the Commission to conduct an impact assessment, by the end of 2012, on the different options; stresses that legal clarity and certainty are needed regarding the MIFs;
41. Notes that after a transitional period, a person coming from any Member State should have his or her SEPA-compatible payment card accepted at every payment terminal in the SEPA, and that the payment should be safely routed; notes that this requirement might imply that MIFs need to be regulated to fall under a threshold, and insists that this should

not result in an increase of MIFs in any Member State but rather to a decrease and, perhaps, a reduction towards zero at some later stage.

42. Considers that cross-border and central acquiring should be enhanced and that any technical or legal obstacle should be removed, as that this would help reduce the levels of MIFs and merchant fees;
43. Considers that MIFs should be regulated at the European level, with the aim of ensuring easier access for new market players to cross-border acquiring, thereby providing merchants with a real choice of which payment schemes they wish to join; points out that if the new legislative proposal provides for fees, full transparency should be ensured on the elements that constitute their rates; recalls that Article 5 of Regulation (EU) No 260/2012 establishing technical and business requirements for credit transfers and direct debits in euros provides that no per-transaction MIF can be applied after 1 February 2017; calls for the same approach for card payments;
44. Considers that the business model for three party and mixed payment schemes may raise competition concerns similar to those for four party payment schemes; believes, therefore, that all card schemes – whether four party, three party or mixed schemes and any new market entrants – should be treated equally in order to ensure a level playing field and to foster competition and transparency for consumers and merchants;

Co-badging

45. Notes that co-badging, which the payment systems involved have participated in voluntarily, could be beneficial to consumers, in that it would result in fewer cards in consumers' wallets, and could facilitate national domestic schemes' access to the broader SEPA-market, encouraging competition; points out, however, that co-badging should not be used in order to bypass domestic schemes through the pre-decided use of a domestic brand;
46. Stresses that the cardholding customers should have the freedom to select which of the provided co-badging alternatives are activated on their specific cards, and insists that merchants should have the right to select which co-badged alternatives they are willing to accept, and that, in every specific payment situation, the cardholding customers should have the right to select their preferred co-badging alternative among those accepted by the merchant; calls on the Commission to propose solutions that will encourage the co-badging of more than one SEPA-compliant scheme; believes that thorough consideration should be given to issues such as the compatibility of management procedures, technical interoperability, and liability for security vulnerabilities;
47. Considers that co-badging should be introduced together with appropriate information for consumers serving to protect them from the risk of being misled; stresses that it must be clear to all parties as to who is responsible for the protection and confidentiality of cardholder and merchant data, and for the co-branded payment instrument;

Surcharges

48. Believes that surcharges, rebates and other steering practices, in the way that they are

commonly applied, are often harmful for end users of payment services; notes that surcharging based solely on the payment choice made by a customer risks being arbitrary and may be abused to raise additional revenue rather than to cover cost; considers that it would be important to ban the possibilities for excessive surcharges in relation to the merchant fee of an individual transaction, and to control rebates and similar consumer steering practices at EU level; stresses, therefore, that merchants should accept one commonly used payment instrument without any surcharge (SEPA-compliant debit card, e-payment), and that any surcharges on other instruments may not at any point exceed the additional direct costs of those instruments compared to the instrument accepted without surcharge;

49. Stresses that it is necessary to require greater transparency and better consumer information regarding surcharges and additional fees for the various payment methods, given that traders generally include transaction costs in the prices of their products and services, with the result that consumers are not properly informed in advance regarding the total cost, and thus pay more for their purchases, a circumstance which undermines consumer confidence;
50. Notes that surcharging based solely on the payment choice made by a customer risks being arbitrary, might be abused to raise additional revenue rather than to cover cost, and, overall, is not beneficial to the development of the single market as it inhibits competition, and increases market fragmentation and confusion for the consumer;
51. Notes that limiting surcharges to the direct cost of using a payment instrument is one possibility, as is a EU-wide ban on surcharges; urges, therefore, the Commission to conduct an impact assessment on banning the possibilities for excessive surcharges in relation to the merchant fee as well as on a Europe-wide ban on surcharging, in light of Article 19 of the Consumer Rights Directive 2011/83/EU;

Payments security

52. Stresses that in order fully to develop the potential of electronic payments, it is essential to ensure consumer confidence, which in turn requires a high level of security to safeguard against the risk of fraud and in order to protect consumers' sensitive and personal data; 53. Stresses that consumer privacy should be protected in accordance with EU and national legislation, and that each party in the payment chain should only have access to data relevant to its processing and the rest would be bypassed encrypted;
54. Considers that the minimum security requirements for internet, card and mobile payments should be the same in all Member States, and that there should be a common governing body setting the requirements; notes that standardised security solutions would simplify customer information and thus the way customers adapt to security arrangements, and that they would also reduce costs within PSPs; suggest, therefore, that all PSPs should be required to maintain common minimum security solutions, which, while they may be improved by the PSPs, should not become competition barriers;
55. Recalls that while the final responsibility for security measures relating to different payment methods cannot lie with customers, they should be informed about security precautions, and financial institutions should be responsible for fraud costs, unless caused by the customer "by acting fraudulently or by failing to fulfil one or more of his

obligations under Article 56 of the Payment Service Directive with intent or gross negligence"; considers, therefore, that public information campaigns should be encouraged with a view to increasing public awareness and knowledge of digital security issues in particular; calls on the Commission, when developing a strategy and instruments for the integration of payment markets by card, internet and mobile phone, to take into account the standards and recommendations of EDPS regarding transparency, identification of the controller/ processor, proportionality and rights of the data subject; considers it important that all payment frauds in SEPA are reported to a centralised site for monitoring, statistics and evaluation, in order to respond quickly to new security threats, and that the main developments should be made public; asks the Commission to extend the concept of privacy by design beyond authentication mechanisms and security safeguards so as to ensure data minimisation, to implement privacy by default settings, to limit the access to individual's information to what is strictly needed to provide the service,- and to implement tools enabling users to better protect their personal data;

56. Considers that the security of face-to-face card payments is generally high that and the gradual change from magnetic cards to chip cards, which should be completed rapidly, will improve the level of security even further; expresses its concern about security issues associated with other forms of card payments, and about the fact that some current European EMV-implementations may not be fully consistent, and calls for efforts to remedy this unwanted situation, and recalls that improved solutions are also needed for remote network-based card payments; calls on the Commission to collect independent data on fraud with online payments and to integrate in its legislative proposal appropriate anti-fraud provisions;
57. Believes that providing third parties with data on the availability of funds in bank accounts entails risks; notes that one of the risks is that consumers may not be fully aware of who has access to their account information, in the context of which legal framework, and which operator is responsible for the payment services the consumer is using; stresses that the data protection may not be compromised at any stage;
58. Stresses that regulatory and technical developments could lower these security risks, and could make payments through non-bank PSPs as safe as payments directly from well-protected bank accounts, as long as secure systems are available in practice and as long as the legitimacy of such access, and the organisations asking for such access, are clearly defined;
59. Does not, therefore, support third-party access to a customer's bank account information unless the system is demonstrably secure and has been thoroughly tested; notes that, in any regulation, third-party access should be limited to binary ('yes-no') information on the availability of funds, and that special attention should be paid to security, data protection and consumer rights; considers, in particular, that it should be clearly specified which parties can have access to this information on a non-discriminatory basis, and under which conditions the data can be stored, and that these provisions need to be subject to a contractual relationship between the entities involved; stresses that a clear distinction between access to information on the availability of funds for a given transaction, and access to a customer's account information in general, should be made when establishing a regulatory framework for third-party access; calls on the Commission to ensure protection

of personal data by proposing, after the consultation of the European Data Protection Supervisor, clear regulation as to which role each actor plays in collecting data and for which purpose, and a clear definition of the actors responsible for collecting, processing and retaining data; adds that card users should have the possibility to access and rectify their personal data, also in a complex cross border context; finds that data protection requirements should be implemented along the principle of "privacy by design/by default" and that businesses or consumers should not bear the responsibility to protect their data;

60. Believes that consumer refund rights should be strengthened, both in the case of unauthorised payments and in the case of undelivered (or non delivered as promised) goods or services, and that effective collective redress and alternative dispute resolution systems are indispensable tools for the protection of consumers, also in the field of electronic payments;
61. Notes that as security threats keep increasing there is a role also for CEN and ETSI to be actively involved in developing security standards;
62. Notes that in payment systems where one or many of the participants are in different Member States, the Commission is expected to make a clarifying proposal on which courts or which out-of-court dispute settlement system should be used for any disputes, and that consumers have easy access and use of these alternative dispute resolution bodies.

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63. Instructs its President to forward this resolution to the Council, the Commission and national parliaments.

EXPLANATORY STATEMENT

The variety of payment instruments is constantly growing both in European and in global level. While new ways of using mobile and internet payments seem to emerge fast and interest both consumers and businesses, even the card payment market is still far away from its full potential and efficiency.

The Commission has published a Green Paper on integrated European market for card, internet and mobile payments where it points out several barriers which prevent the European payment market from working as efficiently and openly as possible. The Rapporteur also acknowledges the benefits of promoting and increasing the card, internet and mobile payments in order to offer consumers and businesses an opportunity to have access to more convenient, secure, fast, variable, flexible and cost-effective payment methods. More extensive use of the above-mentioned payment methods is also a key issue if the e-commerce is to continue its rapid development and its growing contribution to Member States' GDPs.

The card, internet and mobile payment markets are still fragmented in the EU area. There are significant differences regarding the use of card payments between the Member States. The process of creating Single European Payment Area (SEPA) facilitates the bank transfers in 32 European countries, and as of 2014 all the participating countries should have implemented the common SEPA standards. The Rapporteur thinks that as SEPA will remove the gap between domestic and cross-border payments, the goal in integrating card payment market should be making cross-border payments as convenient as payments at a national level. More cross-border players in this field are welcome.

The Green Paper introduces several key factors in enhancing the integration of payments and stimulating competitiveness of the payment schemes. The Rapporteur would like to pay a particular attention at this stage mainly to card payments and to the following elements: standardisation, cross-border acquiring, multilateral interchange fees (MIFs), co-badging, surcharges and the security of payments. The mobile and internet payments market, however, is strongly at an evolutionary stage and should not be too strongly regulated, because this could hinder the natural development and innovation in the field.

The Rapporteur also wants to emphasise that each payment method – cash included – has its cost, and this should not be ignored when discussing the different payment methods and their cost-efficiency.

Standardisation

Common technical and security standards could make it easier for new players to enter the field, promote the use of card payments and make a card payment an easier, a more secure and a more efficient option for consumers.

While the Commission rightly acknowledges the need for developing common standards, the Rapporteur emphasises, however, that the life cycle of current national and regional standards for card payments is rather long and cannot easily be shortened. The Commission should thus be careful in its next steps regarding new integrated standards that will replace the existing

ones. When well developed and implemented, the common standards could not only enhance the competitiveness of the card payment market but also improve the security of payments.

The guideline for continuing development of common technical and security standards should be to achieve the level of common infrastructure which would allow a level playing field, encourage innovation and competitiveness but not essentially add restrictions to way in which the entire field can innovate and expand.

Multilateral Inter-change Fees

It is vital to acknowledge the potential problems that multilateral interchange fees (MIFs) cause to competitiveness, transparency, openness and costs both to merchants and consumers.

In so-called four-party card schemes the acquiring PSP (i.e. the merchant's Payment Service Provider) pays an inter-change fee to the issuing PSP (i.e. the cardholder's PSP) for each card payment transaction. While acknowledging that currently the MIFs may be justified to finance the card schemes, the Rapporteur sees that a high and sometimes a hidden level of MIFs is problematic in regards to open, competitive and transparent market. While at the moment there should not be a common level imposed on MIFs – be it a cap or a range – the long-term goal should be diminishing the level of MIFs. This should, however, be done in a careful manner in order to avoid unequal treatment of different players. The Rapporteur supports the idea of convergence of MIFs towards the lowest levels existing in the EU today, but emphasises that the maximum level of MIFs should not be imposed on EU level.

The Rapporteur sees that transparency in the payment schemes is needed particularly regarding the MIFs and most of all between the merchants and the PSPs. Unlike the Green Paper suggests, it is questionable, how the information on the costs of different payment methods given to the customers would affect his or her choice of payment.

Surcharges

Surcharges are a problematic issue as they can add fees to purchases which are not based on the real cost of the chosen payment method. However, the Rapporteur sees that it should be ultimately for the Member States to decide whether they choose to allow or ban surcharging.

Security of Payments

When encouraging the variety of payment instruments and creation of innovative payment methods, the security of payments should not be endangered. As the development of common technical standards in e.g. card payment schemes go further, the common security standards should be improved as well.

Non-bank institutions' access to the customer's bank account data should be carefully studied as well and not promoted before the same level of security can be guaranteed as applies to the bank accounts.

14.9.2012

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on Towards an integrated European market for card, internet and mobile payments
(2012/2040(INI))

Rapporteur: Sergio Gaetano Cofferati

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Points out that while electronic payments are playing an increasingly important role in Europe and in the world, serious obstacles remain for a fully and effectively integrated, competitive, innovative, safe, transparent and consumer-friendly European digital single market with regard to these forms of payments;
2. Notes that in the current crisis it is essential to take action to boost economic growth and job creation and restimulate consumption, that while the digital market provides a great opportunity to achieve these objectives, the EU must for this purpose be in a position to establish a full digital internal market, and that it is vital to demolish existing obstacles on the one hand and boost consumer confidence on the other; believes, in this connection, that the existence of a neutral and safe European single market for card, internet and mobile payments facilitating free competition and innovation is essential for the achievement of a genuine single digital market and could make a major contribution to increasing consumer confidence;
3. Notes that the development of transparent, safe and effective payment systems in the European digital market is essential in order to ensure a genuine digital economy and facilitate crossborder e-commerce;
4. Underlines the important role that e-payments and m-payments play in the framework of the fight against the grey economy and, in particular, against tax evasion; calls on the European standardisation bodies such as the European Committee for Standardisation (Comité Européen de Normalisation, CEN) and the European Telecommunications

Standards Institute (ETSI), in cooperation with the Commission, to play a more active role in standardising card payments;

5. Recognises in this connection that the Single Euro Payments Area (SEPA) is a cornerstone for the creation of an integrated European payments market and should serve as a basis for developing it and making it more innovative and competitive;
6. Points out that a safe, trustworthy and transparent European framework for electronic payments is essential for the launch of a digital single market; emphasises the importance of information campaigns for consumer awareness regarding the options available on the market and the conditions and requirements for safe electronic payments, and considers that such campaigns should be put in place at European level, also in order to overcome the frequently ungrounded worries about these forms of payment; believes that in this regard, consumer-friendly contact points would enhance trust in remote payments;
7. Believes that transparency of electronic payments systems, correct information for consumers in all payment transactions, and direct and easy access to information are prerequisites for a well-functioning European market for electronic payments;
8. Welcomes the provisions in the new Consumer Rights Directive with respect to additional payments and outlawing excessive fees for the use of means of payment, which will help boost consumers' confidence when shopping online; calls on the Commission, nonetheless, to continue its efforts with respect to the creation of a level playing field in the area of card, internet and mobile payments, which will benefit consumers and businesses alike in a Digital Single Market;
9. Stresses that, in this connection, measures should be taken to put an end to the frequent discrimination occurring against European consumers whose payments for crossborder online transactions are not accepted because of their provenance;
10. Believes that consumer refund rights should be strengthened, in the case of both unauthorised payments and in undelivered (or not delivered as promised) goods or services, and that effective collective redress and alternative dispute resolution systems are indispensable tools for the protection of consumers, also in the field of electronic payments;
11. Stresses that in order to enable the full development of the potentialities of electronic payments, consumer confidence is essential and a high level of security needs to be ensured as a safeguard against the risk of fraud and in order to protect consumers' sensitive and personal data;
12. Stresses the importance of clear rules on consumer protection policies at European level; believes that further standardisation at European level is needed, in the form of a regulatory framework establishing security standards and transparency of costs for each form of electronic payment (also extending to non-banking service providers) and regulating all the actors involved in the provision of payment services as well as all intermediaries, including merchants (e.g. storage of credentials); believes that when defining standards it is necessary to take account of those systems which have brought about significant shifts towards safer payments (e.g. the CHIP&PIN system for cards;

two-factor authentication systems; e-signatures and online payments passing through e-payment services), of those systems which are more vulnerable to fraud (e.g. where consumers' sensitive personal data are transmitted to third parties, as in online payments through overlay services, or the magnetic strip system for cards), and of innovations that could make the processes safer;

13. Notes that the European market for cards, internet and mobile payments is fragmented both across and within national borders; takes the view that standardisation should not be limited to the definition of security standards but should include measures necessary to ensure a more open, transparent, innovative, competitive and unfragmented electronic payments market that brings advantages to all consumers (for example with regard to interoperability or, in m-payments, portability); considers that, to reach this target, the tool of co-badging for payments cards, to be provided by the bank to the cardholder upon request, should be taken into consideration (in that case the choice of PSPs available on the card and of priority between them should be up to the consumer) and that the remaining obstacles to crossborder acquiring should be eliminated;
14. Asks the Commission to assess the possible ways to promote new entrants into the card market, also by taking into consideration, for example, a common payment infrastructure for all transactions regardless of the card provider;
15. Notes that care must be taken to ensure that any such measures always comply with the principles of free and fair competition and free market entry and access, taking account of future technological innovations in this sector, so as to adapt to future developments and consistently promote and facilitate innovation and competitiveness;
16. Believes that all crossborder and domestic multilateral interchange fees (MIFs) should be made public, and calls on the Commission and the Member States to ensure that they are published;
17. Notes that multilateral interchange fees in the Single Euro Payments Area (SEPA) vary significantly between Member States and are often higher than necessary; Believes that these fees should be progressively harmonised in the SEPA by a fixed deadline, in such a way as to respect the European competition rules and encourage market openness and transparency so as to ensure that consumers are not overcharged; calls on the Commission to conduct an impact assessment, by the end of 2012, on the option of setting a cap for MIFs and progressively reducing it; believes at the same time that it is necessary to devise mechanisms and safeguards to ensure that costs are not, in one way or another, passed on to consumers; calls, in parallel, for unfair treatment of consumers in the form of surcharges, rebates, hidden costs or the use of steering practices limiting or restricting consumer choice to be progressively outlawed, paving the way for a more transparent, accessible and, in the eyes of consumers, trustworthy European single market in payments; believes that existing 'No Discrimination' and 'Honour All Cards' rules should be maintained and not changed;
18. Considers that enforcement of the rules on electronic payments is often difficult, inadequate and variable in Europe, and that stronger efforts should be made to ensure the proper and uniform enforcement of the rules;

19. Stresses that it is necessary to require greater transparency and better consumer information regarding surcharges and additional fees for the various payment methods, given that traders generally include transaction costs in the prices of their products and services, with the result that consumers are not properly informed in advance regarding the total cost and thus pay more for their purchases, a circumstance which undermines consumer confidence;
20. Affirms that a self-regulatory approach is not sufficient; considers that the Commission and the ECB, in cooperation with Member States, should take a more active and leading role, and that all relevant stakeholders, including consumer associations, should be properly involved and consulted in the decision-making process.
21. Considers it likely that there will be a growing number of European companies whose activities are effectively dependent on being able to accept payments by card; considers it to be in the public interest to define objective rules describing the circumstances and procedures under which card payment schemes may unilaterally refuse acceptance;
22. Stresses that non-bank entities should not have access to information on a customer's bank account balance, apart from a simple confirmation at the point when the transaction takes place that there are sufficient funds to complete a transaction.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	6.9.2012
Result of final vote	+: 27 -: 2 0: 0
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, António Fernando Correia de Campos, Cornelis de Jong, Christian Engström, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Malcolm Harbour, Sandra Kalniete, Toine Manders, Hans-Peter Mayer, Sirpa Pietikäinen, Phil Prendergast, Robert Rochefort, Zuzana Roithová, Heide Rühle
Substitute(s) present for the final vote	Regina Bastos, Jürgen Creutzmann, María Irigoyen Pérez, Emma McClarkin, Pier Antonio Panzeri, Marc Tarabella, Kyriacos Triantaphyllides, Sabine Verheyen

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.9.2012
Result of final vote	+: 21 -: 0 0: 22
Members present for the final vote	Burkhard Balz, Jean-Paul Basset, Udo Bullmann, Nikolaos Chountis, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Markus Ferber, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Syed Kamall, Wolf Klinz, Jürgen Klute, Rodi Kratsa-Tsagaropoulou, Philippe Lamberts, Werner Langen, Arlene McCarthy, Sławomir Witold Nitras, Ivari Padar, Alfredo Pallone, Antolín Sánchez Presedo, Olle Schmidt, Peter Simon, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Sampo Terho, Marianne Thyssen, Ramon Tremosa i Balcells, Corien Wortmann-Kool, Pablo Zalba Bidegain
Substitute(s) present for the final vote	Sophie Auconie, Pervenche Berès, Sari Essayah, Robert Goebbels, Sophia in 't Veld, Olle Ludvigsson, Catherine Stihler