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Committee on Legal Affairs

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AMENDMENTS 12 - 21

Draft opinion
Dimitar Stoyanov
(PE523.013v01-00)

Payment services in the internal market

Proposal for a directive
(COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))

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United in diversity

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Amendment 12
Rebecca Taylor

Proposal for a directive
Article 4 – paragraph 1 – point 22

Text proposed by the Commission

22. ‘strong customer authentication’ **means** a procedure **for the validation** of the identification **of a natural or legal person based on the use of two or more elements categorised as knowledge, possession and inherence that are independent, in that** the breach of one does not compromise the **reliability** of the **others and is** designed in such a way as to protect the confidentiality of the authentication data.

Amendment

22. ‘Strong customer authentication’ **is** a procedure **based on the use of two or more** of the **following elements – categorised as knowledge, ownership and inherence:**

i) something only the user knows, e.g. static password, code, personal identification number;

ii) something only the user possesses, e.g. token, smart card, mobile phone;

iii) something the user is, e.g. biometric characteristic, such as a fingerprint.

In addition, the elements selected must be mutually independent, i.e. the breach of one does not compromise the other(s). At least one of the elements should be non-reusable and non-replicable (except for inherence), and not capable of being surreptitiously stolen via the internet. The strong authentication procedure should be designed in such a way as to protect the confidentiality of the authentication data.

Or. en

Justification

The definition as proposed is based on the definition of the ECB SecurePay forum recommendation, however the wording used is not as well defined, and it is best to stay consistent and use the actual definition used by the ECB SecurePay forum.

Amendment 13
Sebastian Valentin Bodu

Proposal for a directive
Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) funds shall ***not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held and, where*** they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, they shall be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets as defined by the competent authorities of the home Member State; and they shall be insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency;

Amendment

(a) funds shall, ***on the one hand, be labelled separately for each payment service user while, on the other hand, all those funds combined shall be separated from the payment institution's own funds.*** *Where* they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, they shall be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets as defined by the competent authorities of the home Member State; and they shall be insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency;

Or. ro

Amendment 14
Sebastian Valentin Bodu

Proposal for a directive
Article 9 – paragraph 1 – point b a (new)

Text proposed by the Commission

(ba) In cases where the funds of payment service users are to be used under a term payment order or direct debit and, before the end of the term or automatic payment, legal proceedings are opened against the user of the funds that result in their being frozen, the funds held by the payment

Amendment

institution may not be blocked if the term payment order or direct debit has been issued prior to the judicial decision to freeze the funds.

Or. ro

Amendment 15
Dimitar Stoyanov

Proposal for a directive
Article 33 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that consumers who use switching services receive information on previous completed transactions from transferring payment service providers upon request, at a reasonable price and on a durable medium.

Or. bg

Amendment 16
Dimitar Stoyanov

Proposal for a directive
Article 34 – paragraph 1

Text proposed by the Commission

Amendment

Member States may stipulate that the burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.

The burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.

Or. bg

Justification

The burden of proof in cases of non-compliance with the requirements for the provision of

information on payment services should be assumed by the payment service provider. Member States should not have the possibility of stipulating other options.

Amendment 17

Rebecca Taylor

Proposal for a directive

Article 66 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By way of derogation from Article 65 the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument.

Amendment

By way of derogation from Article 65 the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50 ***or equivalent***, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument.

Or. en

Justification

The amount referred to is only stated in Euros, consideration needs to be given to Member States with a different currency and an equivalent amount in that Member State's currency should be accepted, as the exchange rates change on a daily basis.

Amendment 18

Dimitar Stoyanov

Proposal for a directive

Article 66 a (new)

Text proposed by the Commission

Amendment

Article 66a

Payment transactions for which the amount of the transactions is not known in advance

1. In the case of payment transactions for which the amount is not known at the time of purchase, Member States should set a reasonable maximum amount of

funds that may be blocked from the payment account of the payer, and a maximum time period in which those funds will be blocked by the payee.

2. The payee shall be obliged to inform the payer prior to the payment transaction if funds exceeding the amount of the purchase are to be blocked from the payment account of the payer.

3. If funds exceeding the amount of the purchase are blocked from the payment account of the payer, the payment service provider must inform the payer thereof in a statement of its account.

Or. bg

Justification

In many cases, the final price of the service provided is not known at the time of the transaction, and merchants such as car hire companies, hotels, etc. block for prolonged periods of time amounts that are higher than those required by the payer's credit or debit card company. Such practices guarantee the merchant payment, but without the consumer being informed before making the payment transaction either by the merchant or by the payment service provider.

Amendment 19 **Dimitar Stoyanov**

Proposal for a directive **Article 89 – paragraph 3**

Text proposed by the Commission

3. In the event of infringement or suspected infringement of the provisions of national law adopted pursuant to Titles III and IV, the competent authorities referred to in paragraph 1 of this Article shall be those of the *home* Member State of the payment service provider, ***except for agents and branches conducted under the right of establishment where the competent authorities shall be those of the host Member State.***

Amendment

3. In the event of infringement or suspected infringement of the provisions of national law adopted pursuant to Titles III and IV, the competent authorities referred to in paragraph 1 of this Article shall be those of the ***host*** Member State of the payment service provider.

Justification

Monitoring of the current operations of payment service providers must be performed by the competent authorities of the host Member State because they are in the best position to do this. The authorities in the host Member State must be able to take direct action when the payment service provider fails to meet its obligations and responsibilities.

Amendment 20
Rebecca Taylor

Proposal for a directive
Article 90 – paragraph 4

Text proposed by the Commission

4. The information referred to in paragraph 2 shall be mentioned in ***an easily, directly, prominently and permanently*** accessible way on the ***website of the payment service provider***, where one exists, in the general terms and conditions of ***the contract between the payment service provider and the payment service user and in invoices and receipts relating to such*** contracts. ***It shall specify how further information on the out-of-court redress entity concerned and on the conditions for using it can be accessed.***

Amendment

4. The information referred to in paragraph 1 shall be mentioned in ***a clear, comprehensible and easily*** accessible way on the ***trader's website***, where one exists ***and if applicable*** in the general terms and conditions of ***sales or*** service contracts ***between the trader and a consumer.***

Justification

The wording proposed goes further than the wording of the Alternative Dispute Resolution (ADR) Directive by adding requirements to provide this information on all receipts and invoices which could be burdensome for SMEs. It is best here to use the wording of Article 10(2) of the ADR Directive.

Amendment 21
Dimitar Stoyanov

Proposal for a directive
Article 92 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The EBA shall issue guidelines on the sanctions under paragraph 2 and shall ensure that they are effective, proportionate and dissuasive.

Or. bg