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Scheme and processing fees market review team
Payment Systems Regulator
12 Endeavour Square
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Sent by email to: schemeandprocessingfees@psr.org.uk

30 July 2024

Dear Sir/Madam

Re: PSR MR22/1.9: Market review of card scheme and processing fees interim report

The EMA represents non-bank issuers and acquirers, and our members include leading payments and e-commerce businesses providing online payments, card-based products, electronic marketplaces, open banking payments and more. The EMA has been operating for over 20 years and has a wealth of experience regarding the regulatory framework for electronic money and payments. A list of current EMA members is provided at the end of this document at ANNEX II.

We would be grateful for your consideration of our comments to the PSR's Interim Report, which are set out below in ANNEX I.

Yours faithfully

A handwritten signature in blue ink that reads 'Thaer Sabri'. The signature is written in a cursive style with a long horizontal stroke at the end.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

ANNEX I – EMA Response

Question 1

- **Do you have any views on how we have described the facts and considerations we have identified in Chapter 3? Do you think there are any other factors we should consider as relevant context to our market review?**

EMA response: The EMA, broadly, agrees with the findings identified in Chapter 3 of the Interim Report. In particular, we agree that card schemes (Visa, Mastercard) face different competitive forces on the issuing and the acquiring sides, as issuers generally have the option to switch between card schemes, whereas acquirers and merchants typically have to accept both Visa and Mastercard cards.

Nevertheless, we urge the PSR to continue considering both sides, as any measures introduced on one side may also impact the other.

Question 2

- **Do you have any views on our analysis and provisional finding that Mastercard and Visa are subject to ineffective competitive constraints on the acquiring side?**

EMA response: In general, we agree with this provisional finding.

Question 3

- **Do you have any views on our analysis and provisional finding that the constraint that consumer steering can pose on Mastercard and Visa is limited by the small number of effective alternatives and by the increased friction that steering could generate in the payment process?**

EMA response: Generally, we agree that consumer steering towards alternative methods as a constraint on Visa and Mastercard is currently limited. However, we encourage the PSR to accelerate its work regarding account-to-account payments, particularly open banking Variable Repeat Payments (VRP), so that the market has the opportunity to develop viable alternatives to card payments.

Question 4

- **Do you have any views on our analysis and provisional finding that decisions by operators of wallets are unlikely to result in an effective competitive constraint on Mastercard's and Visa's fees?**

EMA response: In general, we agree with this provisional finding.

Question 5

- **Do you have any views on our analysis and provisional findings that: (i) alternatives available to acquirers in the UK do not provide an effective competitive constraint on decisions made by Mastercard and Visa in the supply of core processing services;**

and (ii) that no alternative suppliers of core processing services currently operate in the UK?

EMA response: We agree with the PSR's provisional finding that there are no viable alternative suppliers of core processing services (on the acquiring side) that could be used in the UK as an alternative to, and a potential constraint on, Visa/Mastercard processing services. Furthermore, there may be no business case for developing such alternative processing services in the UK, given the lack of domestic card schemes.

Question 6 to Question 9: omitted

Question 10

• Do you have any views on our analysis and provisional finding that Mastercard and Visa are subject to competitive constraints on the issuing side?

EMA response: Generally, we agree with this provisional finding. We would like to emphasise that the bargaining power and competition on the issuing side vary across issuers, depending on factors such as the size and composition of the issuer's card offering.

Question 11

• Do you have any views on our analysis and provisional finding that the revenue from the acquiring side accounts for the large majority of net scheme and processing fee revenue for both card schemes in recent years?

EMA response: We are not able to comment on this specifically, due to the redaction of relevant figures in this Interim Report.

Question 12

• Do you have any views on our analysis and provisional finding that the average scheme and processing fees (as a proportion of transaction value) paid to Mastercard and Visa by acquirers have increased substantially in real terms in recent years?

EMA response: We are not able to comment on any specific increases, as the relevant figures are largely redacted in this Interim Report. However, we note this finding corresponds with the concerns raised by the industry participants to the PSR, as well as experience of the EMA members who are merchant acquirers, who have faced card scheme fee increases.

Question 13 and 14: omitted

Question 15

• Do you have any views on our analysis and conclusion that issuers have a generally positive experience regarding the information they receive from Mastercard and Visa (such that they are able to access, assess and act on that information)?

EMA response: We understand that issuers have mixed experiences regarding the information they receive from card schemes, also depending on the scheme. Some issuers report that the fees can be overly complex and the support received from the schemes is limited, especially regarding penalty fees and fines. As one example, fines were charged without prior notice or any indication of an issue, and only after being challenged by the issuer were they explained as a billing error.

Questions 16 to 19: omitted

Question 20

- **What are your views on our proposed remedies? Which remedy or category of remedy set out in Chapter 8 do you think we should prioritise implementing?**

EMA response: Overall, we are supportive of more transparency for acquirers to alleviate the issues they face, as outlined in the Interim Report. However, the PSR's proposed remedies in the Interim Report lack sufficient detail to assess their effectiveness, as well potential consequences, for a considered response.

We urge the PSR to provide more details on the implementation of the proposed remedies, and to consult with stakeholders once they have been shared.

We also urge the PSR to avoid introducing further complexity around pricing and other detailed provisions in the name of transparency, and to be mindful of the unintended consequences for the industry. In particular, developing UK-specific rules - depending on the remedies pursued - may incur significant costs, which would have to be recovered elsewhere within the ecosystem, and could introduce complexity for acquirers and issuers which operate both in the UK and the EEA. This may reduce the effectiveness of card payment methods and/or disadvantage UK cardholders, issuers, acquirers and merchants in the long term.

Question 21

- **Are any transitional provisions needed?**

EMA response: We consider some remedies the PSR is considering will be more complex, and require longer to decide on their appropriateness or method of implementation, than others.

Accordingly, it may be appropriate to prioritise the implementation of remedies that are broadly supported by stakeholders and easier to implement.

Question 22

- **Please explain (with reasons) if you think we should be considering a regulatory financial report remedy?**

EMA response: In general, we support a remedy that enables the PSR to gather sufficient, high quality data concerning UK operations of the card schemes, whether through RFR or other type of reporting. We consider it essential to ensure that any remedy the PSR proposes is high-quality data and evidence-driven.

Question 23

- **Please explain (with reasons) if you think we should be considering possible mandatory consultation and timely notification requirement remedies?**

EMA response: Overall, we are unsure about the potential remedy that would require mandatory consultation with acquirers (or merchants) on all card scheme fee changes. The purpose, participation, and the potential impact of such a consultative process are unclear.

For example, for level playing field and equitable decision-making, the consultation process would need to involve a well-represented portion of acquirers, taking into account differences in their size, business models and need for particular card scheme services. This may impact their ability to participate in the consultation process and the extent to which they might be impacted by particular card scheme changes. It is not yet clear how such representative and equitable participation could be ensured, whilst keeping the process effective. Further, we are not certain whether such consultation process should be limited to acquirers or also include issuers, since, for example, card scheme changes on one side may have an impact on the other side. It is also unclear to what extent card schemes would be expected to be bound by feedback received as part of such consultation. Ultimately, we have some concerns about the potential unintended consequences of mandating card schemes, which are commercial organisations, to consult on their fee changes. If such a consultative process is implemented, its success will depend on ensuring the process is efficient and not overly-burdensome, with clear parameters set for the changes that require consultation, the stakeholders to be consulted and sufficient time for providing a response. Consulting with merchants directly is, in our view, unlikely to be appropriate due to the risk of adding to the complexity and confusion in the process.

On the other hand, we would support greater transparency regarding the reasons for card scheme fee changes. The PSR's proposed remedy of card schemes developing a pricing methodology for UK pricing decisions could help increase such transparency and could be helpful, from that perspective. We note that providing a pricing methodology is not unlike the approach taken by other payment system governing bodies, such as the European Payments Council in relation to the SEPA Payment Account Access (SPAA) scheme.

We are also generally in support of a remedy that requires a minimum notice period before implementation of new fees or changes to the existing card scheme fees, including significant revisions to previously notified fee changes. The notice should include sufficient information to enable acquirers to make informed decisions. We consider timely notification of changes as a reasonably expected part of service levels card schemes should provide. This notice period is essential for acquirers to prepare for, and adapt to, fee changes, which may involve implementing adjustments to avoid incurring certain fees (such as behavioural fees) or additional costs associated with late changes.

Question 24: omitted

Question 25

- **Please explain (with reasons) if you think we should be considering possible remedies to address complexity and transparency issues? In particular, do you think that more detailed, timely and accurate information in respect of behavioural fees would help acquirers and merchants? Do you think a taxonomy or system for classifying fees into different categories would help service users?**

EMA response: Generally, we support increased transparency. However, we urge the PSR to ensure that increased transparency does not lead to increased complexity.

We believe that better information on behavioural fees - which allows acquirers to identify the behaviours and specific merchants that trigger such fees in a timely manner - would be beneficial to both merchants and acquirers. Consequently, schemes should provide all necessary data to identify a billing event or specific merchants free of charge. This should enable acquirers to attribute the behavioural fee costs to those responsible merchants rather than distributing the cost across the entire merchant base. Additionally, this should enable better information on fee charges being passed on to merchants, and incentives for changes in merchant behaviour.

We consider some standardisation of the information being provided by schemes and a taxonomy, may also be helpful.

We reiterate that all of these potential remedies should be assessed comprehensively, considering their costs, benefits and possible unintended consequences, once their implementation details are clear.

Question 26

• On the assumption that some or all of our proposed remedies are taken forward, do you have views on whether the costs (implementation or other) incurred by various market participants, including the schemes, issuers, acquirers and merchants, would be greater than the costs they would typically incur when a change in fees is announced? In other words, will the costs associated with implementing our remedy be captured (or absorbed) through ‘business as usual’ activity?

EMA response: We consider it too early to comment on costs for this broad range of possible remedies, as they have been considered only at a high level, and given that the cost distribution may vary among ecosystem participants. At a high level, we anticipate that the additional costs resulting from the regulatory remedies – essentially a regulatory change – would be higher in many cases.

Question 27

• Do you agree that the initiatives we considered to boost competition are unlikely to achieve the outcomes we would want to see in a timescale that removes the need for regulatory intervention? Please explain your position either way.

EMA response: Regarding account-to-account payments, including through Open Banking, we agree with the PSR that they could introduce more competition to card payments in some retail scenarios. We also acknowledge that the timescales for achieving this outcome are currently uncertain, which highlights the need for the next phase of Open Banking to be clarified and for the market to be given the regulatory certainty to explore commercially viable alternatives to card payments.

Question 28

• Do you agree that the initiatives we considered to encourage surcharging or other forms of steering are unlikely to remove the need for regulatory intervention? Please explain your position either way.

EMA response: We agree that encouraging surcharging is not a viable option at this time, since it is prohibited for domestic consumer payments, representing the majority of card payments. We also agree that encouraging consumer steering towards alternative payment methods is unlikely to be effective, given the lack of widely used and cheaper alternatives that would justify the complexity and potential friction costs to merchants associated with such steering.

Question 29

- **Do you agree with that a price cap or price control could not be implemented following this market review given the issues identified in this interim report, in particular with regard to collective robust and reliable data from the card schemes? Please explain your position either way.**

EMA response: To reiterate, we believe it essential that any proposed remedies, especially those involving any type of price control, must be fully evidenced by comprehensive, and robust data demonstrating that the market is anti-competitive and failing. The PSR's findings thus far do not seem to justify a price cap.

Question 30 and 31: omitted

Question 32

- **Are there any relevant customer benefits that we should consider as part of our assessment of any possible remedies?**

EMA response: We encourage the PSR to consider not only cost savings or reductions but also indirect, longer-term or less tangible benefits, such as improvements in card scheme service quality, innovation, and the stability of card payments - all of which benefit cardholders and merchants.

Question 33

- **Is there anything else we have not considered, and you think we should consider?**

EMA response: We emphasise that introducing too much divergence between UK and EU regimes could have a significant undesirable impact on the operations of schemes and stakeholders that are acquirers or issuers. We urge the PSR to carefully consider these aspects.

The PSR should also take account of the improvements and changes already being implemented by card schemes, acknowledging that the effects of such changes may take some time to materialise fully.

ANNEX II - List of EMA members as of July 2024

Airbnb Inc
Airwallex (UK) Limited
Amazon
Ambr
American Express
ArcaPay UAB
Banked
Bitstamp
BlaBla Connect UK Ltd
Blackhawk Network EMEA Limited
Boku Inc
Booking Holdings Financial Services International Limited
BVNK
CashFlows
Circle
Coinbase
Contis
Crypto.com
Currenxie Technologies Limited
Curve UK LTD
Decta Limited
eBay Sarl
ECOMMPAY Limited
Em@ney Plc
emerchantpay Group Ltd
EPG Financial Services Limited
eToro Money
Etsy Ireland UC
Euronet Worldwide Inc
Facebook Payments International Ltd
Financial House Limited
First Rate Exchange Services
Flywire
Gemini
Globepay Limited
GoCardless Ltd
Google Payment Ltd
IDT Financial Services Limited
iFAST Global Bank Limited
Imagor SA
Ixaris Systems Ltd
J. P. Morgan Mobility Payments Solutions S. A.
Lightspark Group, Inc.
Modulr Finance B.V.
MONAVATE
MONETLEY LTD
Moneyhub Financial Technology Ltd
Moorwand Ltd
MuchBetter
myPOS Payments Ltd
Navro Group Limited
Nuvei Financial Services Ltd
OFX
OKG Payment Services Ltd
OKTO
One Money Mail Ltd
OpenPayd
Own.Solutions
Papaya Global Ltd.
Park Card Services Limited
Payhawk Financial Services Limited
Paymentsense Limited
Paynt
Payoneer Europe Limited
PayPal
Paysafe Group
Paysend EU DAC
PayU
Plaid
Pleo Financial Services A/S
PPRO Financial Ltd
PPS
Push Labs Limited
Remitly
Revolut
Ripple
Securiclick Limited
Segpay
Soldo Financial Services Ireland DAC
Square
Stripe
SumUp Limited
Syspay Ltd
TransactPay
TransferGo Ltd
TransferMate Global Payments
TrueLayer Limited
Uber BV
VallettaPay
Vitesse PSP Ltd
Viva Payments SA
Weavr Limited
WEX Europe UK Limited
Wise
WorldFirst
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