European Payment Institutions Federation

Interchange Fee Regulation Review

Comments to the Copenhagen/E&Y Study

April 2019

ABOUT EPIF (EUROPEAN PAYMENT INSTITUTIONS FEDERATION)

EPIF, founded in 2011, represents the interests of the non-bank payment sector at the European level. We currently have over 190 authorised payment institutions and other non-bank payment providers as our members offering services in every part of Europe. **EPIF** thus represents roughly one third of all authorised Payment Institutions in Europe. All of our members operate online. Our diverse membership includes a broad range of business models, including:

- 3-party Card Network Schemes
- Acquirers
- Money Transfer Operators
- FX Payment Providers
- Mobile Payments
- Payment Processing Service Providers
- Card Issuers
- Third Party Providers
- Digital Wallets

EPIF seeks to represent the voice of the PI industry and the non-bank payment sector with EU institutions, policy-makers and stakeholders.

Context

The Interchange Fee Regulation (IFR) aims to combine lower interchange fees with increased transparency and competition in the market. The IFR caps bank-to-bank fees for debit and credit card payments in the EU. It came into effect in December 2015.

In 2016, the second part of the IFR regulations came into effect. This included the following:

- Card schemes have to permit multiple brands to be processed on the same card at the point of sale ('co-badging');
- The "Honor all cards rule" no longer applies for cards that are not subject to interchange fee caps which means acquirers cannot mandate merchants to accept both credit and debit cards for any given brand.
- Card schemes have to separate their transaction processing and scheme management activities.

In preparation for this review clause the Commission has commissioned an independent study by Copenhagen Economics/E&Y to assess the above criteria. Section 4.5 of the Questionnaire directed at interest groups includes an open question headed 'Additional comments and remarks'.

Additional comments or remarks

EPIF represents a broad spectrum of payment institutions. As a result, the IFR impacts our respective members differently.

A number of business models, such as Money Transfer Operators, FX Payment Providers, Mobile Payments, Third Party Providers and Electronic Wallets are not directly subject to the IFR.

Other such as third party schemes, acquirers and independent processors are directly impacted by the regulation. For this reason, the comments by EPIF remain high level. They are directed at the overall objective of the IFR and our general views on the Regulation.

Many of our members will additionally be responding to your call for input directly. Should you nonetheless require further input from any segment of our membership we would be happy to facilitate these introductions.

The changing payment landscape

EPIF has consistently expressed concern at the level of dominance of the two global card schemes in Europe and has welcomed any moves to increase competition in the European market for retail payments. The global nature of the main two card schemes also impacts the effectiveness and development of the regulatory landscape in Europe.

EPIF has been a proponent of stimulating competition by reducing the barriers to entry into the payment sector and providing more choice between different means of payment to merchants and the consumer. We therefore welcome EU policy initiatives with this intent, such as the introduction of the Payment Services Directive (PSD), the instant credit transfer scheme and a general openness to new FinTech solutions in the payment space. The revised PSD (PSD2)entered into force earlier this year bringing into the scope of regulation payment initiation services and payment account information services. This should increase the demand for account based payment solutions as an alternative to card based payments. In reviewing the effectiveness of the IFR and any further amendment to it, the Commission should be mindful of the impact to merchants of this competition in payment services, and any unintended consequences of further intervention.

Merchants and customers should have access to a broad choice of payment solutions. There should be room for cash payments, account based payments, innovative payments but also card payments. Card payments will remain an important element of the overall mix of payment solutions.

Consumer behaviour is also changing. An increasing part of retailing is now occurring online. This trend is likely to further accelerate moving the payment process away from a Point of Sale physical experience to an online environment. This brings new technological challenges, especially when it comes to cross-border payments. Of course, it also offers huge opportunities to develop new payment solutions and if we look at the evolution of our membership it is in this area we are experiencing the largest attraction of new members.

The card payments value chain has evolved and changed over time and now looks very different to when the IFR was first devised. The card payments value chain involves the interaction between numerous interconnected stakeholders.

Effectiveness of certain provisions within the IFR

In our view, the IFR has not achieved its legislative goals, and in particular the goal to promote competition for the benefit of merchants and ultimately consumers. The consequence of the chosen regulatory approach is that small and new operators are treated the same way as the dominant players ("one size fits all"), burdening them with the same requirements that should only apply in exceptional circumstances and only to address concerns emanating from the dominant duopoly of Visa and Mastercard. The IFR did not take into account that in an industry sector that is not functioning properly - where two players have a combined share of more than 97% - the only way to create choice and competition is to help smaller competitors offering innovation and differentiation to flourish.

Moreover, the wider policy impact is particularly negative as the IFR has made it exceedingly difficult for anyone, including new entrants, to offer an alternative option to Visa or Mastercard in the cards sector. We would encourage an approach which tries to ensure consumers and merchants have a real competitive choice.

Applying this to the IFR itself, we have therefore been sceptical of steering instruments that are aimed at stimulating competition and choice for merchants and consumers, such as co-badging or the honour all cards rule which in essence make it even less attractive for merchants to promote smaller card schemes. By contrast we have been supportive of the separation of processing where such separation is capable of increasing competition in the processing space. We had also supported an exemption from the scope of the IFR of innovative or smaller providers as long as their EU wide share was small and they could help introduce more competition in the cards sector.

Surcharging within the IFR was prohibited for capped transaction and left to the decision to the national competent authorities for exempt transactions, leaving an inconsistent application of this practice across Europe.

EPIF believes surcharging is detrimental to consumer choice and protection and to the efficient functioning of the payments sector. In particular, merchants with market power are often able to exercise unrestrained surcharging at the expense of consumers, whether that be a store in a remote location or a nationally dominate retail enterprise.

Surcharging unfairly discriminates against card payments, especially when compared to other less efficient forms of payment, such as cash and checks. These payment methods are less practicable for merchants to handle and are often more costly, especially when the risks of counterfeit notes, theft, dishonoured checks, write-offs and collection agency commissions are taken into account. EPIF calls for a ban to all surcharging on exempt transactions.

We have at the same time been consistent in saying that the tool of price regulation is not the right tool for stimulating competition. We have opposed out of principle any capping of fees for retail payments. This is an easy political win but does not reflect the nature of a payment sector that is undergoing rapid change. While we thought a few years ago that price regulation is inappropriate we believe this is even more the case today given the evolution and transformation we are seeing in the European payments space.

Financial regulation plays a significant part in the transformation of the payment landscape. Europe has played a large role in deploying regulations that promoted innovation and harmonised consumer protection such as PSD2. Too stringent regulation may hamper the appetite of the industry to invest and innovate in safety and security of the payments system.

If the actors do not find a viable commercial incentive to further invest in the infrastructure the whole security of the different payment ecosystem could be at risk. Regulators need to play a balancing act by not over regulating and compromise services that are consumer friendly. Europe needs to stay competitive by innovating and developing new services that enhance security and the customer experience; regulators need to partner with the industry and not stifle innovation and competition.

We support greater transparency and the provision of information to merchants and users. If presented in a way that is customer friendly, the available information on costs and fees should give merchants and users the real ability to take informed decisions as to the type of payment instrument they prefer to use for particular payment transactions. However, we would caution against further interventions requiring the disclosure of more information that will create confusion and generate fewer benefits to merchants and users.