EPSM e.V. c/o InterCard AG C&V, Mehlbeerenstraße 4, D-82024 Taufkirchen

European Commission
Mr. Jean-Yves Muylle
SPA2 04/58
1049 Brussels
Belgium

by e-mail

EPSM e.V.
c/o InterCard Aktiengesellschaft
Compliance & Verbandsarbeit
Mehlbeerenstr. 4
D - 82024 Taufkirchen b. München

Tel.: +49 - 89 - 6 14 45 - 412
Fax: +49 - 89 - 6 14 45 - 3412
E-mail: nicolas.adolph@epsm.eu

23rd June 2010

Views on the EU Working Paper on SEPA Migration End-Date

Dear Mr. Muylle:

In response to the working document from 28th May 2010, I would like to answer as member of the PSMEG. The statements do not necessarily reflect all of the views of the EPSM members.

First some general statements, as already stated in my letter from 26th November 2009:

a) **SEPA should be a European opportunity, not a "Must from Brussels".**

b) **SEPA products should be better than national products.**

c) **SEPA standards should be introduced by a market-driven process.**

Therefore, SEPA standards should be improved in some important details, before a discussion on SEPA end dates should start. Furthermore, any end-dates should be decided by the market participants in a self regulatory process, not legally mandated.

Therefore, the best solution for users and for a service-based competition would be no legal SEPA migration end-dates!

Also, I want to state clearly, that a legal obligation will be highly unpopular among users in some markets!

Payments has to rely on the trust of the users – and trust has to grow for many years. Trust cannot be mandated!

If - in spite of these general statements - the European politics should decide to introduce compulsory measures, any obligation should cover only the sphere "between payment service providers" and not the interface "PSP – customer".

In detail, I would like to give the following comments to your paper (several remarks occur twice):

1. To the title

1.1. The Commission should clarify the definition of SEPA within the meaning of this working paper and its subsequent actions. Does the Commission refer only the EPC products or does it refer to products in a general "European retail payments market"?

2. To Page 1

2.1. In some markets (especially in Germany), card payment settlements are integrated into the standard interbank settlement technologies. In these markets, existing settlement technologies have to be kept until the card payments will have migrated also to a new technology (like the "SEPA Card Clearing" – SCC). Therefore the second sentence in (1) seems not to characterize the situation in these markets.

2.2. To point (4): The details of this market assessment should be made public, as they are of utmost importance.

2.3. To point (5), first dash:
Why shall credit transfers within closed numbering systems (like within e-money institutions) be covered?

2.4. To point (5), fifth dash:
Common standards and general essential requirements make sense in the "interbank" or "inter-PSP" infrastructure, but where is the reasoning mandatory for legal standards in the PSP-customer interface? The cited economic reasoning is very doubtful!

2.5. To point (5), sixth dash:
Reachability and interoperability requirements in the "inter-PSP" infrastructure market make sense. It should be clarified what this means for "interbank credit transfers" e.g. from a savings account to a giro/payment account.

2.6. To point (5), seventh dash:
The obstacles to open cross-border payment accounts are still significant. On example is that the EU directive for Anti-Money-Laundering still discriminates between "domestic" accounts and "cross-border" accounts. This should be changed first!
Also, different consumer protection rules lead to a discrimination. The effects of "Rome1" and "Rome2" should be carefully analysed.

To the Annex:

3. "Scope", page 3:

3.1. It should be clarified if this regulation shall apply also for "intra-PSP credit transfers" e.g. from a bank savings account to a giro/payment account.

3.2. In some markets (especially in Germany), card payment settlements are integrated into the standard interbank settlement technologies. In these markets, existing settlement technologies have to be kept until the card payments will have migrated to a new technology.

3.3. What means the reference to BBAN and why is it included?

3.4. To the exclusions:
Is option (d) not a subgroup of exclusion (c)?

In general: Would a short, positive definition be not better? E.g.
"This regulation covers only transactions that result in a credit transfer or direct debit where both the sending and the receiving account are identified by an IBAN".

4. **"Reachability, interoperabilty and facilitating mesasures", page 4:**

4.1. To the general wording: Does it mean always "should" or do you mean "must"?
(the preferred wording should be "should"!)

4.2. Facilitating measures: The concrete meaning of the last paragraph is unclear! – Also, how should any enforcement be made binding for private users?

5. **"End-dates, essential requirements and standards", page 5:**

5.1. It should be noted, that usual investment cycles for payment systems are 4 – 10 years !!!
12 and 24 months are well below any usual investment cycles, especially at user levels!!!
Please consult the typical tax lists for deprecation of software products by the relevant ministries of finance!!!

5.2. Why is there any obligation on payment service users? The economic reasoning for this requirement is not clear!

6. **"Waiver for niche products", page 7:**

6.1. Especially for direct debits there are three different product types in the market:
a) Creditor Mandate Flow (CMF, supported by the EPC)
b) Debtor Mandate Flow (DMF)
c) No Mandate Flow (NMF)

Any "end-dates" for direct debits should only apply for CMF direct debits – as long as there are no adequate instruments for DMF and NMF direct debits available.

6.2. There should be no percentage for "so called" niche products. In the German market, NMF direct debits are currently much more than 90% or the market! Any market share close to 10% seems not realistic in the next years for this market!

7. "Payment account opening", page 8:

7.1. The obstacles to open cross-border payment accounts are still significant. On example is, that the EU directive for Anti-Money-Laundering still discriminates between "domestic" accounts and "cross-border" accounts. This should be changed!
Also, different consumer protection rules lead to a discrimination. The effects of "Rome1" and "Rome2" should be carefully analysed.

8. **"Annex: essential requirements", page 11:**

8.1. The essential requirements in (1) are reasonable.

8.2. The essential requirements in (2) should cover only the "inter-PSP" market. The first dash should read:
"The following mandatory data elements should be provided by the ~~payer to his/her~~ payment service provider **of the payer** and passed throughout the payment chain to the payee:"

8.3. The essential requirements in (3) should apply only for CMF direct debits and cover only the "inter-PSP" market.

The seventh dash should read:
"The following mandatory data elements should be provided by the ~~payer to his/her~~ payment service provider **of the payer** and passed throughout the payment chain to the payee:"

9. "Glossary" page 14:

9.1. If possible, the glossary should refer also to some PSD-relevant comments at the EU website.

Two important further comments:

a) Due to recent discussions in data protection in payments, the transmission of the unencrypted mandate information in direct debits should be carefully analysed and cleared by the "article 29" – group of European Data Protection Supervising authorities.

It should be evaluated, if an encrypted mandate transmission or the transmission of just a technical authorization code (similar to a CVC code in a credit card transaction) fulfills better the EU wide requirement on data economizing/minimizing.

b) Due to the recent Euro crisis, any "forced changes" to users might risk to create uncertainty and fear. A voluntary approach in time of crisis should be preferred – especially if the topic concerns the ways how to handle money!

Kind regards,
Chairman of the EPSM

Nicolas Adolph