THE UKCARDS ASSOCIATION

European Commission Green Paper

Towards An Integrated European Market for Card, Internet and Mobile Payments

Response from The UK Cards Association

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MANAGEMENT SUMMARY

Key Points and Themes of The UK Cards Association Response

The UK Cards Association has provided a comprehensive response to the Green Paper *Towards An Integrated European Market for Card, Internet and Mobile Payments,* reflecting the importance it attaches to the issues raised.

We fully support the objectives set out in the Green Paper, namely that:

- there should be an increase in competition;
- competition should deliver innovation, more choice and transparency for consumers;
- that new developments should improve payment security and thereby gain consumer trust.

However, when it comes to a number of the proposed measures in the Green Paper we find it difficult to see how they will assist in the achievement of these objectives. In fact, we see the potential for some of the proposed measures to hinder the attainment of these objectives, and would therefore urge caution and careful consideration. Nonetheless, we do see a positive role for the Commission, summarised below. Otherwise the Commission risks developing a regulatory framework that differentiates between technologies and between providers, applying different sets of rules in different circumstances, the consequences of which are likely to result in a distortion of the payments market.

The following key points and themes are explored more fully later in this document:

A Positive Agenda for the European Commission

Having considered the Green Paper in depth The UK Cards Association believes that can be a role for the European Commission in fostering the right market conditions for the development of internet and mobile payments. We believe that the Commission has a pivotal role in articulating a clear set of aspirational goals, top of which is to ensure that Europe is at the forefront of payment innovation. This ought to be under-pinned by a simplified regulatory framework that addresses key principles of fair and equitable access, integrity, and security of payment systems which are relevant and accessible while promoting competition and innovation. We have identified the following supporting activities where the European Commission could be of assistance, and would suggest that, in priority order:

- the Commission should urgently engage with the payments industry to review existing legislation such as the Payment Services Directive (PSD) and the Consumer Credit Directive (CCD), with the objectives of (i) accommodating a mobile payments world and (ii) identifying and removing any aspects that are inadvertently inhibiting the development of e-commerce and m-commerce (see page 14);

- the Commission should assess the risk to the integrity of the payment system of (new and emerging) PSPs who may have a lesser regard for, or focus on, credit and fraud risk and what measures might be necessary to ensure that PSPs do give due regard;

- the Commission should seek parallel commitments to 'SEPA for cards' from other relevant industries and players who may be instrumental in delivering m-payment products and services;

- the Commission should set out guidance on the appropriate scope for collaboration of different sectors to deliver against a vision for e-commerce and m-commerce;

- the Commission should undertake research to fully understand why consumers and retailers in other member states have not yet embraced e-commerce as much as the UK, Australia and the US, including what products and services they might be interested in purchasing cross-border online;

- the Commission should undertake its proposed research to assess the likely impact of enhanced transparency at the point-of-sale of total costs on consumer behaviour (though we are sceptical that this will reveal any useful information);

- the Commission should undertake research to fully understand consumers' propensity to make payments beyond Europe;

- the Commission could progress its work in undertaking a definitive study into the cost of payments, particularly cash, that all stakeholders can support;

- the Commission could evaluate how merchants in different sectors with cross-border reach adapt their business models and websites to local conditions;

- the Commission should examine inhibitors to the broad-based take-up of m-payments.

These activities would complement the efforts of industry in the UK where:

- the UK Cards Association and its members, the mobile network operators and the retail community have, independently of each other, recognised that in order for mobile payments to become a reality, there needs to be greater collaboration (within the bounds of competition law). As such, The UK Cards Association has embarked on a programme of work, as follows:

- o investigate with the international payment schemes and our members all options to increase the level of contactless acceptance in the UK in order to provide the critical mass of acceptance devices that will provide the rails for a rollout of mobile retail payments;

- o seek to establish a senior level multi-stakeholder Strategic Board for cross-industry issues relating to the development and implementation of NFC-enabled retail payments in the UK. This will require the Association to formalise its relationships with key stakeholders including the schemes, mobile network operators, retailers and government;

- o establish a formal programme of work to communicate with consumers on issues relating to the implementation of NFC-enabled retail payments (raising awareness and providing reassurance regarding security).

Whilst still at an embryonic stage – and undoubtedly challenging – we see this as being a major step forward in making mobile payments a reality in the UK.

Consumer Needs Will Drive Evolution in Payments

- Generally speaking, the Green Paper tends to overlook the consumer in terms of their wants, needs and willingness to pay for innovative payment products. Consumers' interests are not the same as retailers' interests, and retailers' interests cannot be a sound proxy for the interests of consumers. Ultimately it is the consumer who will drive the success of different products in the market;

- whilst payment providers and regulators may have a vision for the future, nobody can predict which solutions consumers will prefer and will ultimately win out. We do not believe that regulation can or should be a substitute for, or a driver of, consumer preference and choice and, hence, innovation. We are not aware of any evidence that regulatory interventions in other jurisdictions or markets have delivered product innovation. To the contrary, we believe such intervention is more likely to hinder innovation through increased costs and a disproportionate impact upon new or smaller participants;

- it is therefore vital, if there is need for new regulation at all, that this needs to be carefully constructed so as to maintain or create a level playing field between different providers and technologies, irrespective of the underlying business models or charging structures. In addition, any regulation should be based on robust evidence that supports the need for intervention (including evidence that consumers would benefit);

- consumers are used to, and expect to be able to, make card payments anywhere in the world, meaning that any vision for mobile payments must deliver the same ready facility to pay for goods and services not just within Europe, but world-wide.

Regulators Need to be Forward Thinking in a Rapidly Evolving Market

- The Green Paper looks at the market as it is constructed today – including the cross-subsidisations that are obviously at work – and focuses on a small number of detailed issues rather than a coherent whole. It overlooks key strategic questions such as how business models will have to change and cross-subsidies addressed for mobile payments to become a reality. This retrospective approach means that the issues raised in the Green Paper will become increasingly irrelevant and out of date and, if pursued, are more likely to inhibit electronic commerce and mobile payments than enable it;

- there is considerable activity as regards the development of products in both the internet and mobile payments space in the UK. Whilst progress so far may not be as fast as the industry or the European Commission would hope, the issues being faced are complex and involve stakeholders from a variety of more traditional payments and network backgrounds to work together in new ways whilst being mindful of and respecting competition law;

- to enable innovation it is essential that the European Commission fosters an environment where the application of market forces, competition and a route to acceptable returns on investment is clear. Uncertainty created by the threat of possible regulation, particularly price regulation, or attempts to regulate for standardisation, will only serve to hinder, if not halt, progress.

- there is no doubt that technological advances in mobile telecommunications and the rapid growth of social networking will become driving forces in the evolution of the payments market, though it is too early to predict how this will manifest itself.

Integrity and Security of Payment Systems are Essential to Engender Consumer Trust

- New entrants and innovative forms of payment should be encouraged and will generally be of benefit to consumers. However, this is provided that they do not undermine the integrity of the payments systems in general from a settlement or security perspective, or in the management of fraud and credit risks. The card industry has invested heavily in promoting and ensuring security, the success of which in the UK can be seen in recent significant reductions in card fraud losses. Consumer trust is easily undermined if fraud and credit risk is not properly provided for at all stages.

Transparency and Payment Scheme Costs

- We entirely agree that it is essential to provide a high level of pricing transparency to merchants so that they can easily and accurately assess the costs of accepting different payment cards and products. Visa and MasterCard have both voluntarily taken steps to ensure that acquirers provide this information to all merchants, irrespective of size and, in addition, disclose applicable MIFs on their websites;

- allied to transparency, we believe that the merchant's ability to selectively discourage the use of particular payment mechanisms by surcharging and incentivise others is a legitimate right and a practical mechanism by which merchants have the ability to influence their acceptance preferences. However, we support the view that surcharges imposed by retailers that are contingent on the method of payment being used should be (i) transparent and (ii) cost-reflective;

  These conditions are being addressed by the Consumer Rights Directive and we welcome the UK Government's decision to accelerate the implementation of these measures in the UK. Under these conditions we see surcharging as an effective measure to drive competition in payment acceptance pricing and promoting the use of efficient payment mechanisms. We also think this would be considerably more effective than price regulation that takes no account of the differential benefits and features of different payment mechanisms;

- so far as transparency of payments system costs to consumers are concerned we have no reason to believe that consumers' altruism towards retailers would drive them to use the cheapest payment mechanism for that retailer. Consumers' and retailers' interests do not always align. We believe that other considerations important to the consumer such as price, convenience, security, payment guarantee, the need to borrow, or consumer protection would rank higher in the consumer's decision making process than the retailer's costs.

Global Open Standards Should be the Preferred Choice

- In confining itself to consideration of pan-European standards, the Green Paper ignores the global reach of card payments that make them so attractive to consumers and merchants. European consumers and businesses should not be denied access to payment products that can be used outside Europe or the ability to accept international card payments;

- there are well established existing ISO and EMV standards and specifications that govern card and mobile payments already in existence, along with pan-European legislation that protects consumers (i.e. the PSD; the CCD). These are effective and accessible to new entrants. We cannot see any rationale for a proposed move to alternatives, particularly when these do not yet exist and have not been defined. Introducing uncertainty around future standards is likely to hamper investment decisions and innovation;

- we are not aware of any examples of where regulators have successfully developed interoperability standards. This is better achieved by market co-operation which allows sufficient flexibility to allow adaptation and development of products in a way that fosters competition.

What Else Needs to be Considered?

- The Green Paper overlooks a number of important aspects such as the need for Payment Service Providers (PSPs), existing or new, to have sufficient respect for fraud risk and credit risk (in order not to undermine consumer confidence in the integrity of payments in general) through to mobile devices being used to accept as well as make payments (see Section C for a more comprehensive list);

- interchange, one of the core issues in the Green Paper, is already being addressed via due process of competition law and, in our view, need not be addressed from any other angle;

- notwithstanding the above point, the Green Paper discusses interchange in an over-simplistic manner and, we believe, overstates the extent to which payment issues are a barrier to e-commerce. The UK Cards Association regards card payments as the great <u>enabler</u> of e-commerce and that, were it not for cards, e-commerce would not really exist;

- there is an urgent need to review the existing provisions in the PSD, the CCD and, domestically, the UK Consumer Credit Act to identify provisions that are inadvertently hindering the development of mobile payments;

- consideration also needs to be given to the differences in the level of regulation applied to banks compared to new payment services providers that inadvertently result in the absence of a level playing field (which can often result from disparities in interpretation of legislation across member states);

- the industry itself needs to consider the impact of mobile payments on standard operational procedures such as chargebacks and authorisations. This work will be predominantly down to the card schemes.

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A. The UK Cards Association

The UK Cards Association is the leading trade association for the payment card industry in the UK. The Association is the industry body of financial institutions who act as card issuers and/or merchant acquirers in the UK payments market.

The Association is responsible for formulating and implementing policy on non-competitive aspects of card payments. Members of the Association account for the majority of debit and credit cards issued in the UK, issuing in excess of 58 million credit cards and 79 million debit cards at the end of 2010, and covering the whole of the plastic transactions acquiring market.

The Association promotes co-operation between industry participants in order to progress non-competitive matters of mutual interest and seeks to inform and engage with stakeholders to advance the industry for the ultimate benefit of its members' consumer and retail customers. As an Association we are committed to delivering a card industry that is focused on improved outcomes for the customer based upon robust evidence.

The attached document contains a detailed response to the questions posed in the Green Paper and comments on the accompanying text.

The UK Cards Association is an evidence-based organisation which believes that policy decisions and proposals should always be based on the strongest possible evidence. It seeks to provide evidence to back up its points and is wary of anecdote and unsubstantiated assertion. (Hence there is an underlying concern regarding the absence of detailed analysis and quantifiable evidence in the Green Paper which would have helped discussion and assisted responders in responding).

Given that the UK is among the member states most advanced in its use of payment cards and is therefore more dependent on them, particularly credit cards, the Association regards the Green Paper as a key influence on the future development of the UK, European and global payments market and ourselves as a key stakeholder.

B. A Vision For The Future

The Green Paper content can usefully be tested against its relevance to a world based upon a plausible vision for the future.

The UK Cards Association's vision for the future is a Europe where, led by consumer demand (particularly from younger consumers), card payments are increasingly displaced at point-of-sale in the long term by payments originated and/or accepted from/by other form factors, predominantly mobile devices such as mobile phones, using portable payment applications that are fully interoperable (though there will not be total movement by consumers and merchants away from card payments).

In the short term this will require payment providers to provide consumers with a system that delivers interoperability between cards and other devices.

In parallel, consumers will continue to migrate to e-commerce at the expense of point-of-sale using payment products, some of which may never have been card-based, with a market for new methods for P2P payments also emerging.

With regard to terminals in the physical point-of-sale environment, we aspire to see NFC-enabled terminals in every bricks-and-mortar retailer accepting payments via all form factors (card; mobile phone etc.) from personal current accounts and credit card account with global interoperability. In parallel, individual and small merchants would be able to accept payments via all form factors using handsets.

At all times, the party at the centre of this vision is the consumer. However, the number of players in the payment value chain will evolve to include some or all of the following:

- Banks, payment institutions and ELMIs;
- The card schemes/networks;
- Other payment service providers (e.g. PayPal);
- Telecoms companies (or mobile network operators (MNOs));
- Technology companies (e.g. Google, Apple);
- Merchants;
- Hardware manufacturers (both point-of-sale and mobile devices);
- Application developers and software manufacturers.

This vision in itself raises some significant issues to be overcome:

- cultural differences between players – new technology companies tend to be resource-rich[1]; more agile; risk-taking; and tend to be less regulated. Banks tend to be resource poor (at the moment); slower moving; more cautious (having high regard for the inherent risks relating to fraud and credit); and tend to be highly regulated. Many card companies, particularly mono-line credit card companies, see themselves as lenders first, payment service providers second[2];

- business model differences between players – different players will see the payment relationship with the consumer as one element of a wider relationship with that consumer from which they might derive revenue, with different attitudes to cross-subsidisation and a different perception of the lifetime value of an individual consumer to them[3];

- consumer attitudes – significantly, consumers are likely to be much more positively disposed towards new technology companies than they are to banks;

- long term decline in card payment revenues – revenue streams in the payment card/credit industries have been under scrutiny from legislators and regulators, and therefore downward pressure, for a number of years, meaning declining incomes for incumbents (we are not aware of this being the case with technology companies). Against this long-term declining trend there will be more participants in the payment chain looking to derive revenue streams on the back of potentially significant investment – something of a paradox;

- the pressure on existing revenue models – payment services are often cross-subsidised so that there is no direct cost incurred by the consumer. UK domestic cash withdrawals are a good example of this, as, we believe, are many domestic debit card schemes across Europe, which appear to be cheap whereas, in reality, costs are being cross-subsidised. As new competitors enter the payment market, driving competition in providing the payment rather than the lending facility or payment account, the willingness or ability to perpetuate cross-subsidies by the incumbents may diminish;

- Fragmentation within the card industry, particularly the emergence in the UK of large stand-alone acquirers that are no longer part of, or have never been part of, an organisation with a card issuing arm, for whom the business case for technological development is likely to be quite different to stand-alone card issuers and combined issuer/acquirers.

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[1] For example, Apple's reserves are more than $76 billion, meaning it has more cash to spend than the US Government

[2] The cost of changes is also a major problem. Established players rely on an infrastructure which does not allow flexibility and therefore face significant costs any time major changes are required. The increased requirements on capital adequacy also limit the capital available to PSPs for technology investments

[3] For example, a technology company such as Google may be motivated by revenues that can be generated by exploiting consumer purchasing preference data rather than interchange or lending revenues

Innovation has and is taking place to the benefit of consumers. To date we have seen a number of 1:1 collaborations in the UK between traditional banks and MNOs, either trialled or announced for forthcoming launch, such as:

- Barclaycard & Orange – QuickTap
- Barclaycard & O2
- Barclays Pingit mobile app
- Boku mobile wallet service
- Visa and Intel smartphone equipped with NFC
- O2 mobile money transfer app
- Vodafone and Visa mobile wallet
- Visa and Samsung Olympics m-payment app

However, despite trials being reported as successful (both from a technological and a consumer acceptance point-of-view) such bespoke solutions have not yet achieved critical mass as they are at the forefront of an emerging market and are limited by the (overlap of) market share of the parties involved.

C. Issues That Need To Be Considered

There are a number of issues to be considered that The UK Cards Association believes are fundamental to a discussion about the future of retail payments that are overlooked in the Green Paper. Although these issues are relevant to Question 32 in the Green Paper we believe their omission to be of such importance that we introduce them here. These issues include:

The Consumer Proposition

- the consumer proposition, where the global nature of payments mean that European consumers need, and continue to value, payment products that can be used beyond Europe, where European consumers risk being disadvantaged by any geographic restriction on usage if the ambition for new payment products is restricted only to inter-member trade within the European community;

- that e-commerce is a global phenomenon and that focusing solely on pan-European ambitions is therefore limiting for consumers and merchants (for example, there is considerable internet commerce between UK consumers and US-based companies);

- the potential market for person-to-person (P2P) payments, where the mobile device also operates as a payment acceptance device;

- the fact that consumers' use of credit cards for payments is inextricably linked to their need for and use of credit.

Industry Structure and Commercial Frameworks

- the likely fragmentation and proliferation of payment products and market participants and the need for collaboration, where the key question will be whether consumer and retailer demand will be sufficient to drive innovation in payments;

- the possibility that mobile payments might evolve out of something other than card payments, where a focus among regulators on cards alone is likely to skew the market one way or the other;

- consumers' willingness to pay for technologically advanced payment solutions, and who they are willing to pay;

- the implications of the likely co-residence of different payment products and brands on a single mobile device (rather than just being in the same wallet);

- the implications for standard operational procedures such as chargebacks and authorisations etc;

- at least in the UK, the recent emergence of a stand-alone acquirers no longer part of institutions with a card-issuing arm (almost two thirds of UK card transactions are processed through stand-alone acquirers that are no longer or have never been part of a card issuing institution[4]);

- any comparison of the benefits of different payment mechanisms beyond cost;

- how existing cross-subsidisations that operate in payments and have distorting effects might need to be addressed;

- the establishment of prepaid cards as a niche payment product;

- the emergence of e-money issuers.

Regulation and Legislation

- the possible implications of existing legislation e.g. the PSD in terms of inadvertent consequences, including such things as Direct Currency Conversion (DCC);

- the fit of mobile technology with current legal definitions relating to both payments and consumer credit at European Commission level and in member states and the responsibilities placed on providers of different elements of the product i.e. the phone; the application; the card; the underlying account;

- the relevance and importance (and failure to emerge despite the Consumer Credit Directive[5]) of a single market in credit, particularly credit card credit, to underpin a single market in credit card payments;

- the possible implications of disability discrimination legislation such as already exists in the UK;

- the constraints on collaboration of existing competition legislation;

- the risk that, as mobile technology is rolled out, card present transactions (in bricks and mortars establishments) are processed as online transactions, circumventing chip & PIN;

- the need for caution around both fraud risk and credit risk associated with new payment products and services;

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[4] Source: The UK Cards Association

[5] We doubt that a single market in credit will develop given lenders' lack of willingness to lend cross-border due to factors including the absence of robust and accessible credit reference databases; the complexities of complying with different regulations in different countries; and differences across member states in debt recovery procedures etc.

- the consequences where m-commerce results in a shift in transactions from being online to offline, and the subsequent ability to authorise transactions.

Inevitable Market Changes

The Green Paper examines the market from how it operates today without considering how it must change for mobile payments to become a reality.

The way payment systems are structured and remunerated will change. This means that a number of the issues raised in the Green Paper are either rapidly becoming out-of-date or are no longer relevant. The mind-set we believe is necessary – and would encourage – is one that seeks to envision the future based upon new business models and how these are best supported (without recourse to unnecessary regulation) at EU level to get there, based upon a good understanding of the strategic issues the new system faces, rather than looking retrospectively and deconstructing the existing model.

Our other key observations on the Green Paper are as follows:

- Consumers – there is little mention of the wants and needs of consumers in the Green Paper, with whom card payments are ever increasing in popularity. Nor is any comparison made, from the consumer point-of-view, of the different protections afforded by different payment mechanisms. Evidence from the UK suggests that consumer (and merchant) behaviours regarding their use of different payment mechanisms, and different types of card payments, have changed independently of (i) legislation/regulation and (ii) the economic cycle (see page 19), suggesting they are influenced or motivated by other factors. Nonetheless, pricing should be clear and concise (where transparency does not result in information overload).

- Industry – it is disappointing that there is little recognition or credit given to the payment industry for creating, developing and evolving a card payments infrastructure on a global scale (chip & PIN; contactless etc.) without the need for regulatory assistance, a system that in many ways is no less astonishing than the internet. Nor is any real mention made of the key benefit of card payments in the form of the provision of a payment guarantee, where certainty of payment enables trade and provides certainty of outcome for retailers. It is not clear to us why the EC seems so dissatisfied with the card payments system and regards it as a problem when it is so popular with consumers and important to the economy. In the UK alone, at £136 billion, domestic spending on credit cards accounted for 9% of UK GDP in 2010.

- Retailers – the Green Paper seems to reflect many of the criticisms levelled at the card industry by retailers over the years without questioning them. For example, no evidence is provided to substantiate the retailer view that reductions in interchange will be passed on to consumers, a claim by retailers that we regard as being disingenuous and not borne out by experience in other jurisdictions such as Australia and the US (see page 23). Nor is there any reason to believe that a decrease in MIFs would increase the use of cards, if that is an ambition of the Green Paper.

- Regulators – the Green Paper itself is a good example of regulators creating uncertainty leading to planning and investment blight. There is a sense that the Green Paper over-emphasises the extent to which regulation can provide the conditions needed for the evolution of payments. To the contrary, an inflexible regulatory framework, incapable of swift adaptation, is likely to impede the development of new payment mechanisms and services based on new approaches. For example, we are already seeing the implementation of the PSD in the UK proving problematic when it comes to evolving contactless payments into new sectors, particularly transit, where regulation that never foresaw such a development is inadvertently hindering rollout.

  Good examples where regulation is causing problems and delay include the following:

  - UK card issuers, working with Transport for London (TfL) to enable contactless payment cards to be used as an alternative to a pre-funded Oyster transit only card, are having to deal with provisions in the PSD that, quite reasonably, provide protection to consumers from unexpected charges. However, the way in which the legislation is drafted is causing debate as to whether it unintentionally prohibits the use of general contactless payment cards being used for variable fares where the price is dependent upon time of travel and route taken. This application of payment cards was presumably never contemplated when drafting the PSD;

  - In the UK we hear anecdotal reports of non-UK merchants abusing Direct Currency Conversion through uncompetitive exchange rates to the consumer's detriment, an abuse presumably not foreseen at the time the Payment Services Directive was written;

  - Incidences such as the Commission's proceedings against the European Payment Council's standardisation process in the field of online payments in response to a complaint alleging that these standards discriminate against players that are not controlled by a bank;

  - Incidences such as the Commission's current interest in the UK MNO's joint-venture.

In addition to this, when we are talking about credit card payment applications on mobile devices, it is important to be cognisant of the implications of the requirements of consumer credit legislation i.e. the CCD and, in the UK, the Consumer Credit Act, where a credit card payment application resides on a mobile phone. For example, in law, which is the payment instrument – the phone or the application? Which is the credit token? Are they both? Who is the issuer – the bank or the phone company? Are they both? How might consumer negligence with respect to payments be interpreted if one person lends another their phone to make a call and a payment is made? Do terms and conditions need to be re-issued when an application is downloaded? Or when the phone is replaced? Or when the application is transported from one device to another etc? By whom?

For these reasons we believe that the two year review of the PSD and the CCD are vital to ensure that they are fit for purpose and are able to accommodate a mobile payments world.

In addition, The UK Cards Association thinks the point made in the Green Paper on page 6 where it says "the line between e-payments and m-payments is blurred – which may be even more the case in future" is extremely important.

The dynamic nature of the payments market makes it extremely difficult to predict with any precision how products and services will develop and be used. It would be very unfortunate if regulation based on existing processes and assumptions impeded the ability of European consumers and business to take advantage of the advance of technology in the payments market by virtue of inappropriate regulation.

D. Commercial vs Political Forces

The Green Paper also assumes that the market will take a perfectly rational economic approach to the provision and acceptance of payments. However, there are often external influences that may affect this. For example, following numerous UK high street retailers, petrol stations etc. deciding to no longer accept cheque payments at the point-of-sale on the grounds of cost and time, the UK payments industry, under the auspices of the Payments Council, announced its aim to close the UK cheque clearing in 2018 subject to adequate alternatives being in place – effectively a course towards the end of the cheque in the UK. There is no doubt behind the rational economic and commercial logic of this decision.

However, this announcement met with a negative political, media and consumer reaction leading to a reversal of the position and a commitment to continue with the cheque clearing beyond 2018. Therefore, whilst individual retailers are (rightfully) at liberty to decide what payment methods they will and will not accept, it is not straightforward to make such decisions at a payment industry level, with existing payment service providers obliged to continue to offer out-dated and expensive payment methods that might not otherwise survive.

By way of other relevant examples where political and commercial forces are unaligned:

- The London Assembly has recently expressed concerns over the plans of Transport for London (TfL) to move to contactless ticketing based upon bank-issued contactless payment cards[6]. Adoption of contactless ticketing by TfL is seen as a significant step in achieving critical mass and widening consumer adoption of contactless card payments. Whatever the outcome of this intervention, it is an example of political intervention potentially diluting the business case for such initiatives, stifling innovation.

- In 2007 MasterCard proposed the introduction of unique SEPA interchange fees that would have applied equally across the EU. However, the Commission criticised the proposals which were therefore withdrawn by MasterCard (and formally prohibited in the EC vs MasterCard decision of December 2007). However, the Green Paper now appears to be criticising differences in the levels of interchange in the various EU member states having dismissed a potential solution.

[6] http://www.bbc.co.uk/news/uk-england-london-15777441

E. Consumers Exercising Choice

UK consumers have already shown themselves to be exercising choice over their selection of payment methods, no more evident than in the recent experience of debit cards and credit cards.

Up until 2005 the UK had seen strong growth in credit cards as the number of cards in issue grew at double-digit rates, credit card debt rose and repayments fell[7]. Since 2005 the UK credit card market has been marked by flat spending, higher repayments (as consumers deleverage) and a fall in credit card holding. Since 2005, it is the rise of the debit card that has driven growth and a significant shift in how UK consumers pay for goods and services. 91% of growth in all cards spending over the period 2005-2010 has been on debit cards.

What is interesting about this UK experience is that:

- the UK credit card market stopped growing in 2005 as consumers became more cautious over their use of credit cards, some time prior to the so-called 'credit crunch' commencing in 2007;
- there has, as yet, been no marked interruption in credit card trends since 2007 despite the subsequent recessionary environment;
- consumer behaviour changed independently of any legislative or regulatory initiatives aimed at influencing or protecting consumers or the economic cycle, or any apparent cost implications.

[7] See http://www.theukcardsassociation.org.uk/files/ukca/documents/press_releases/decade_of_cards_final.pdf

1. Introduction

One of the drivers of the benefits from more market integration identified in this section of the Green Paper is one of "more choice and transparency for consumers", stating that "with a broader range of competitive services, payment users could choose the payment instruments and providers which best serve their needs. Today, the cost implications of the choice they make are often not visible to consumers. Due to hidden costs it is often the most expensive payment method which is used and costs are indirectly passed to all consumers through increased prices".

This statement seems to assume that perfect knowledge of price to both parties to the payment transaction would result in consumers adopting more rational behaviour. However, we believe that consumers will normally choose the most rational course of action for them which would be to choose the payment mechanism that is free to them or offers most benefits. For the vast majority of UK consumers, point-of-sale payments are provided free by PSPs (and only 1% of UK issued credit cards come with an annual fee[8], despite the fact that the card issuer bears a number of fixed costs). Their decisions will take into account other factors beyond price such as:

- Convenience
- Security
- Consumer protection
- Propensity or need to take on debt
- Incentives and rewards (where offered)
- Quality of service and brand loyalty
- Acceptance by merchants

Cross-subsidisations which distort the price to the consumer mean that the rational choice for the consumer is not necessarily always the most efficient choice for society as a whole. For the same reason, letting the retailer choose, or to overtly influence the choice of payment instrument, would not be a better solution as they would choose the cheapest payment method for them, which still may not be the best from the point of view of society or the individual consumer.

[8] The UK Cards Association – figures for Q1 2011

The mention of “hidden costs” here is, to our mind, loaded if it is meant to refer to retailer costs. One could also argue that the cost of cash to the merchant and to society as a whole is just as hidden. Whilst consumers may not know or be driven by the cost of payments to the retailer (and even if they were in possession of that information it is not known how they would respond), we believe it would be more relevant to look at total costs. The consumer will ultimately pay for money transmission costs of any payment mechanism either via costs passed through in retail prices; costs associated with the provision of payment products and bank accounts or, in the case of cash, taxation, at least in relation to those elements of costs incurred by Central Banks. In our view it makes little sense to look at any of these costs in isolation.

With regard to cross-border e-commerce, the very nature of the internet is that it is geographically neutral. From a consumer point-of-view the internet represents a virtual high street that mirrors their experience in the physical world in the comfort of their own homes when seeking familiar goods and services.

From a retailer point of view they may (i) increasingly choose to centralise their payments processing in a single member state separate from their distribution (invisible to the cardholder) or (ii) offer goods and services to consumers simultaneously in several member states, structuring their websites in ways that make them accessible to consumers by removing the barriers of language and acceptance of particular payment products. This stands to blur the definition of what is true cross-border e-commerce.

Other significant barriers here are likely to be:

- the language used by websites and the product range that they choose to offer, which merchants will naturally tailor to their expected customer base (commonly differentiated on national grounds);
- the cost of delivery of physical goods, which is where the relative geography of the buyer and the seller becomes relevant;
- concern regarding the ability to complain or seek redress if there is a problem with the purchase e.g. the national jurisdiction of Dispute Resolution Services such as the various Ombudsmen in the UK;
- specific local laws that impact the products and services offered e.g. safety laws; age restrictions on products etc;
- a lack of understanding by regulators and industry of the extent to which consumers consider the possibility of shopping for particular goods and services cross-border, or indeed shopping with companies not specifically servicing particular domestic markets via cross-border arrangements.

The UK Cards Association does not see any evidence that the payments industry is holding back a single market in cross-border e-commerce.   In fact, The UK Cards Association’s view is exactly the opposite in that <u>card payments are actually a key factor in facilitating cross-border e-commerce</u>.

2. Current Payment Landscape and its Shortfalls

It is stated in this section of the Green Paper that, in 2009, there were almost **58 billion** retail payment transactions in the euro area alone (where retail payments are defined in footnote 1 on page 2 as all payment transactions which do not take place between banks, with the key retail payment instruments identified on page 1 being credit transfers, direct debits and payment cards). The source for this figure is given as the European Central Bank.

Figures produced in the UK by the Payments Council for 2010 (not including cash acquired at ATMs etc.) are as follows:

UK Payment Volume Summary 2010

Payment Method	*Number of Transactions (billion)*
Cheques	1.1
Credit/charge/store cards	2.0
Debit cards	6.4
Direct Debits	3.2
Automated Credits	2.6
Standing Orders	0.5
Total	*15.8*

Source: Payments Council UK Payments Statistics 2011

This would suggest that the UK alone accounts for an equivalent of 27% of the 58 billion retail payment transactions in the euro area before taking into account an estimated 20.4 billion cash payments in the UK[9].

Although it is not of great importance it would be useful to clarify definitions and methodologies in order to reconcile these statistics.

It is further stated in this section that "full migration to SEPA for credit transfers, direct debits and payment cards could yield direct and indirect benefits of more than **€300 billion** over a six year period". It is not clear from the Green Paper:

- which studies are being cited;
- the methodologies involved; nor
- how this saving breaks down between the different payment methods.

The UK Cards Association would expect a Green Paper of this importance to be clear on this. In the absence of this information we have no means of validating or challenging this figure.

[9] Source: UK Payments Council Payments Statistics 2011

We therefore have to make a presumption that these savings are some combination of:

- efficiencies produced by standardisation;
- savings based upon claims often made by retailers that, if payment card interchange fees were reduced (i) MSCs charged by acquirers would be reduced, and that (ii) the resulting savings to retailers would be passed on to consumers in the form of lower prices at the point-of-sale; and
- some other factors of which we are not aware.

With regards to (ii) above we do not believe that the claim that reduced MSCs would be passed on by merchants to consumers in the form of lower retail prices. This is not supported by the evidence from markets where interchange rates have been heavily reduced i.e. Australia and the United States.

We also believe that consumers will not be happy with some of the inadvertent consequences that have been seen, particularly in Australia, such as reductions in rewards/benefits; additional cardholder fees etc. and the possible migration to less efficient mechanisms such as cash.

The Australian Experience

In 2002 the Reserve bank of Australia intervened to cap Visa and MasterCard interchange fees for banks operating in its domestic market. This reduction in interchange fees was passed on to merchants by acquirers, effectively transferring revenues from the payment service providers to the merchants. Not only did this result in increased annual fees for consumers, the introduction or increase of other fees, less generous loyalty schemes, and fewer innovations (such as chip & PIN), but Australian consumers don't pay less for the purchase of retail goods and services.

According to the Reserve Bank of Australia in 2007 "in total, over the past year (2006) merchants' costs of accepting credit cards are around $900m lower than they would otherwise have been. At that time Visa reported that "the evidence to date casts doubt on whether merchants have passed any, or any substantive, amount of savings on to consumers". MasterCard reported that even "a cursory glance of the financial statement of many if Australia's merchants would reveal a consistent growth in the profit margins irrespective of changes to that merchant's cost base".

The UK Cards Association is not aware of any evidence to suggest that Australian merchants did pass on any savings to consumers.

The United States Experience 2011

Following the so-called Durbin amendment to the Dodds-Frank Act, the Federal Reserve issued on 29 June 2011 the final rule which caps the price of debit card interchange at 21 cents, plus 5 basis points *ad valorem* for fraud losses and 'up to' one cent for fraud prevention.

In December 2011 the Electronic Payments Coalition (EPC) conducted research among twenty-one retailers across the US that showed that 76% had not passed promised savings to consumers, despite already receiving $825 million in windfall profits in the first two months following the implementation of the Durbin amendment. According to the EPC, "16 of 21 retailers visited across the country either raised prices or kept them the same before and after the 1 October 2011 implementation of the Durbin amendment. Overall, customers paid on average 1.7% more after implementation, with Wal-Mart and Walgreens being high profile transgressors."

In the absence of any evidence to the contrary, The UK Cards Association does not see any reason to believe that European merchants would act differently to those in Australia and the United States. (In fact, our understanding is that where VAT has been reduced, such as in restaurants in France, the savings have not been passed on to consumers).

Given this evidence, and until any robust evidence to the contrary is provided, this must bring into question the statement made in the FAQs accompanying the consultation document that "merchants…typically pass the resulting higher cost of payments on to all consumers by adjusting the retail price of the good or service, rather than charging the specific user of the more expensive means of payment, in line with the 'user pays' principle"

Nonetheless it makes little sense to evaluate the comparative payment costs without understanding the end-to-end cost of provision of a particular payment mechanism, and whether and where any cross-subsidies apply. For example, while UK domestic debit card ATM transactions are generally provided free to consumers it would be incorrect to assume that no costs are incurred in the provision of these services (the costs are being cross-subsidised by other income streams).

2.1 Core Payment Instruments (Credit Transfers and Direct Debits)

The UK Cards Association disputes the assertion made in section 2.1 of the Green Paper that credit transfers and direct debits are the only payment instruments for which specific pan-European payment schemes exist.

Firstly, **The UK Cards Association does not agree that credit transfers and direct debits are the only core payment instruments and that, by excluding them, payment cards are not core** (especially as card payment volumes in the UK are two to three times that of Direct Debits). We believe that the existence of multiple payment mechanisms which have different features and benefits, enhance the payments landscape, provide choice and enhance the competitive payment landscape, are to the general benefit of consumers, retailers and the economy.

Secondly, we consider card payments under the Visa, MasterCard and American Express brands to offer pan-European payment schemes within the broader context of global schemes. These are either owned or controlled by EU Payment Institutions (Visa, American Express) or have those organisations as customers (MasterCard). It is of significant commercial interest to the payment schemes to be responsive to the needs of those owners or customers by providing products and services that are appropriate to the markets in which they operate.

VPay and Maestro are examples of card payment products specifically tailored for European markets and, as such, we believe that they should be considered core payments products and should be embraced by the Commission as making an essential and useful contribution to the EU economy.

2.2 Payment Cards

Our understanding is that a major issue for the Commission is the continued existence of national debit and credit card schemes in member states.

The logic seems to be that a national scheme is contrary to the aim of SEPA, and that a European scheme is more desirable for all parties. There also seems to be a view that global schemes are inconsistent with the aims of SEPA. But by the same logic that says that a European scheme is more desirable than a national scheme, then a global scheme (Visa, MasterCard, American Express, and perhaps to a lesser extent, Diners, JCB, Discover etc) is more desirable than a European scheme. The consumer proposition, in terms of utility, is clearly better the larger the acceptance footprint of a given scheme.

The assimilation of Access, the UK's domestic credit card scheme, in the 1990s, and of Switch, the UK's domestic debit card scheme, in 2004, into MasterCard / Maestro, giving global acceptance, have been a success and well received by UK merchants and consumers.

We do not understand why the role of the global schemes as a means of achieving SEPA is not recognised by the Commission. The schemes have specific rules relating to the European area to reflect local market conditions; have structured themselves to have both national (i.e. member state) and European governance bodies; employ many thousands of Europeans; have integrated European schemes into the global infrastructure to the merchants' and consumers' benefit, and Europe has led the world in terms of migrating to chip & PIN.

For example, Visa is a fully European company, deliberately structured as an EU entity, owned by European banks with its own bespoke European products (some of which are pan-European only) and processing systems. Visa Inc. has granted it a perpetual licence to use the Visa brand in the EU. Indeed, Visa has developed VPay, a European chip-only scheme. In our view it is factually incorrect not to regard Visa as a pan-European company.

Similarly, MasterCard Europe functions as an independent licensing, marketing and product development company within the MasterCard framework, tailoring its business to the needs of its European customers, consumers and merchants.

2.2.1 Payment Card Fraud

This section of the Green Paper concludes with the statement that "fraudulent use of payment cards also remains an issue, especially for remote transactions". This statement deserves further examination.

It is important to put UK card fraud in context of the overall UK fraud problem. According to the National Fraud Authority's (NFA) *Annual Fraud Indicator* for 2011[10], the estimated total for UK card fraud losses stood at £38.4 billion of which £3.6 billion (9.4%) was accounted for by the financial services sector, and of which card fraud accounted for £440 million (a 2009 figure - the figure for 2010 was lower still at £365 million). This represents just 1.1% of the overall total fraud figure arrived at by the NFA.

Preventing card fraud in the UK has been a priority for the UK card industry since the early 1990s, since when we have seen significant developments such as the chip & PIN implementation (2004-2006) along with a number of other initiatives, including those detailed in the box at the end of this section.

The combination of these initiatives has resulted in the recent significant turnaround in UK card fraud over the last three years and shows that, with a will, strong commitment and investment, the card industry is able to manage its fraud problem. The UK card industry is very proud of its record on fraud prevention and regards itself as a lead industry in the field. Much could be gained if Governments were able to emulate this success. A summary of fraud figures for the last decade is shown on page 30 and shows that:

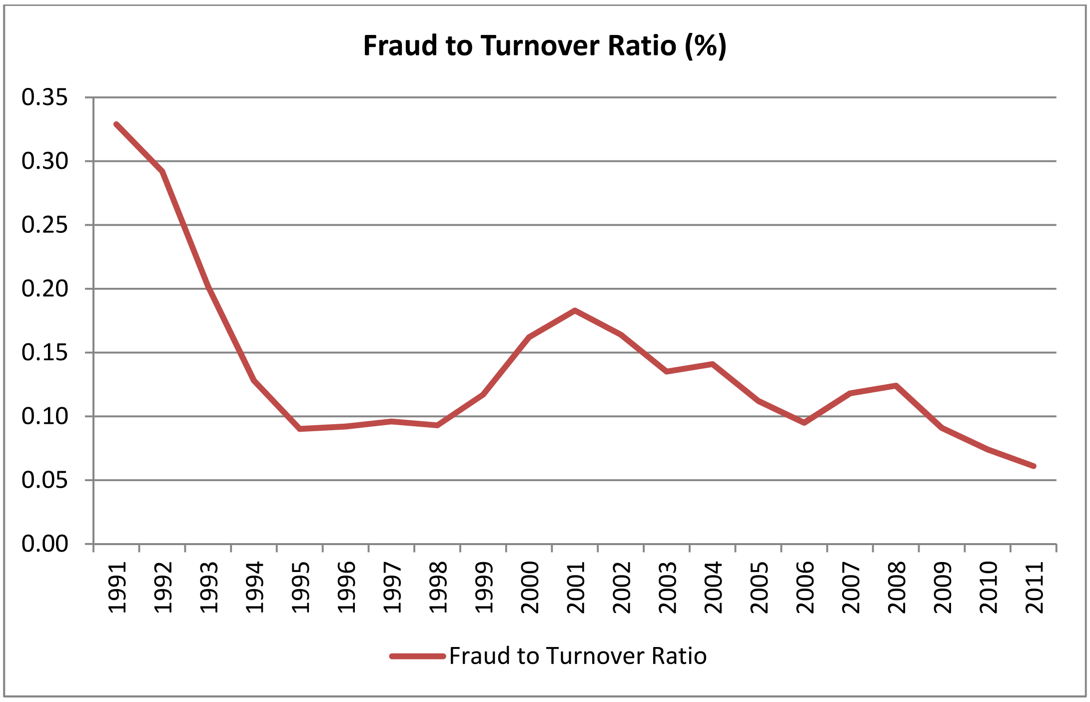
- overall card fraud losses in the UK have fallen from a peak of £610 million in 2008 to £341 million in 2011 and are at levels last seen around 2000;
- within this total, card-not-present fraud losses have fallen from a peak of £328 million in 2008 to £221 million in 2010;
- an estimated £139.6 million of card fraud took place over the internet in 2011, down from £181.7 million in 2008.

In terms of the ratio of fraud-to-turnover on card transactions, which we regard as the best indicator, we can see that the recent story is again one of success, but that history teaches us that this can be cyclical as fraudsters become more sophisticated and develop new modus operandi, meaning industry has to try and stay one step ahead.

The 2010 UK fraud-to-turnover ratio was an historic low of 0.074%, compared to 0.091% in 2009, a fall of 19%. This compares to 0.180% ten years ago in 2001 and 0.329% in 1991, as shown in the following chart:

[10] http://www.homeoffice.gov.uk/publications/agencies-public-bodies/nfa/annual-fraud-indicator/afi-2011-diagram?view=Binary

UK Card Fraud to Turnover Ratio 1991-2011



Source: The UK Cards Association

The decrease in the value of internet fraud losses has been aided by the increasing use of sophisticated fraud screening detection tools by retailers and banks to detect potential internet fraud as well as the continued growth in the use of Verified by Visa, MasterCard SecureCode and American Express Safekey.

The vast majority of this type of fraud involves the use of card details that have been fraudulently obtained through methods such as skimming, data hacking, or through unsolicited emails or telephone calls. The card details are then used to undertake fraudulent card-not-present transactions.

Whilst the UK banking/payment industry has been successful in driving down card fraud in recent years it cannot afford to be complacent. This highlights a contradiction in the approach of the Commission which often implies a reduction in the sources of revenue for card issuers but, at the same time, presumably expects that industry continues to make considerable investment in the implementation of more secure transactions.

However, with the growth of m-commerce in particular, a key concern must be that new players enter the payments market without an understanding of fraud, how it is perpetrated, and how it can be prevented. Fraudsters will be able to take advantage unless there is a robust means of authenticating buyers and sellers.

If speed to market is allowed to take precedence over security concerns, the resulting reputational damage risks slowing or killing the adoption and use of new technologies and hinder development, though there is a strong argument, based on the UK experience, that the current players are managing this issue well. However, it is important that new payment products have fraud control measures that at least match the equivalent card controls.

Managing this situation is of critical importance in maintaining consumer and merchant confidence in the integrity of e-commerce, m-commerce and supporting payments methods, suggesting a need for careful consideration by industry and regulators.

Annual Fraud Losses on UK-issued cards 2000-2011

All figures in £million

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Change 10/11
Card not present	72.9	95.7	110.1	122.1	150.8	183.2	212.7	290.5	328.4	266.4	226.9	220.9	-3%
Counterfeit	107.1	160.4	148.5	110.6	129.7	96.8	98.6	144.3	169.8	80.9	47.6	36.1	-24%
Lost/stolen	101.9	114.0	108.3	112.4	114.4	89.0	68.5	56.2	54.1	47.7	44.4	50.1	13%
Card ID theft	17.4	14.6	20.6	30.2	36.9	30.5	31.9	34.1	47.4	38.2	38.1	22.5	-41%
Mail non-receipt	17.7	26.8	37.1	45.1	72.9	40.0	15.4	10.2	10.2	6.9	8.4	11.3	+34%
TOTAL	317.0	411.5	424.6	420.4	504.8	439.4	427.0	535.2	609.9	440.0	365.4	341.0	-7%
Fraud:turnover ratio (%)	0.162	0.183	0.164	0.135	0.141	0.112	0.095	0.118	0.124	0.091	0.074	0.061	-18%
Of which:													
Internet / e-commerce	**3.8**	**15.0**	**28.0**	**45.0**	**117.0**	**117.1**	**154.5**	**178.3**	**181.7**	**153.2**	**135.1**	**139.6**	**3%**

NB: due to the rounding of figures, the sum of the separate items may differ from the total shown

Initiatives That Have Contributed to Declining UK Card Fraud Since 2008

The key initiatives that have contributed to declining card fraud in the UK, funded by the industry, include:

- Establishment of the Dedicated Cheque & Plastic Crime Unit (DCPCU), a specialist police unit targeting organised criminal gangs, in 2002;
- Establishment of the Financial Fraud Bureau (FFB), responsible for managing the payment industry's co-ordinated initiatives on data sharing to reduce financial fraud;
- Creation of the Fraud Intelligence Sharing System (FISS) in 2008, which enables the UK banking industry to share information on all confirmed, attempted and suspected fraud in a central, shared database;
- Working closely with the City of London Police to establish the National Fraud Intelligence Bureau (NFIB);
- A migration towards almost universal authorisation of card payments;
- Management of an Industry Hot Card File (IHCF), containing information on more than 6 million cards reported lost or stolen against which retailers can check a payment card offered as payment;
- Expanding the adoption of online fraud prevention solutions such as Verified by Visa, MasterCard SecureCode and American Express Safekey;
- Rollout of fraud prevention tools such as the Address Verification Service (AVS) and Card Verification Value (CVV or CV2);
- Widespread use of intelligent fraud-detection systems by banks, checking for unusual spending patterns to spot fraud before it is reported by the cardholder;
- Cross-industry co-operation to prevent card ID theft; and
- Measures to prevent cash machine crime such as technology upgrades, regular inspections of cash machines, use of CCTV and consumer education.

2.3 Payments Through The Internet (e-commerce)

In discussing the potential for e-commerce it is our view that there is merit in first examining the current situation in greater detail. The UK has, we believe, a highly developed e-commerce sector which shows what can be achieved in terms of consumers going online and making purchases.

2.3.1 The Current Situation in the UK

The UK is well-served in terms of its understanding of UK consumers' use of e-commerce. Research[11] shows that:

- in 2010, 40.8 million UK adults had regular access to the internet, an increase of 7.2 million adults on five years previously;
- young people are the most enthusiastic users of the internet, with over nine in ten young adults aged 16 to 44 going online at least once a week, compared with eight in ten adults aged 45 to 54 and seven in ten aged 55 and above;
- adults in higher socio-economic groups and who earn higher wages are more likely to have regular access to the internet;
- there was a 31% increase in the number of UK adults accessing the internet through their mobile phone in 2010, rising to 8.9 million. This figure continues to grow rapidly and had reached 13.8 million in the first half of 2011;
- the number of online shoppers has risen rapidly over the last two years, from 24.7 million in 2008 to 35.7 million adults in 2010, when they accounted for 72% of the UK population and 87% of regular UK internet users. This figure reached 36.7 million in the first half of 2011;
- the age profile of online shoppers is skewed heavily towards young people with 95% of 16 to 24 year olds with regular internet access shopping online compared to 54% of adults aged 55 and above with regular internet access;
- most adults who shop online do so frequently. In 2010 almost 6 in 10 internet shoppers reported making more than eleven purchases in the previous year. Adults aged 44 and below accounted for almost seven in ten adults who had made more than 30 purchases online in the previous year;
- the use of credit and debit cards online reflects overall cardholding use and trends. Adults in higher age groups have higher rates of credit card holding and use online. In 2010 76% of adults aged 65 and above held a credit card, falling to 38% of young adults aged 16 to 24. Similarly, around 65% of online shoppers aged 65 and above used a credit card to buy goods and services online, dropping to only 15% of young adults aged 16 to 24;
- in contrast, debit card holding is more evenly spread across age groups, with more than 80% of UK adults in every age group holding a debit card. Young people, however, are more likely to use their debit card online and 78% of young adults aged 16 to 24 shopped online using a debit card last year compared to 36% of adults aged 65 and above.

[11] Source: Payments Council Internet Monitor XVII June 2011

- in 2010, 35% of online shoppers (around 13 million UK adults) used PayPal online and a smaller number (around 3 million) used other methods such as cheques, vouchers, Neteller and Nochex or charged items to their internet service provider account. Over the first half of 2011 just over 15 million UK adults (or 41% of online shoppers) had used PayPal to purchase goods and services over the previous year;
- PayPal is a popular means of paying for goods on auction sites and use was highest among young adults and adults in higher socio-economic groups. 44% of internet shoppers aged 25 to 34 used PayPal to pay online in the last year, compared with 26% of those aged 65 and above.
- holders of UK issued credit cards benefit from consumer protections under section 75 of the Consumer Credit Act 1974 that makes the lender equally liable as the merchant for transactions that go wrong;
- holders of UK issued debit cards benefit from the various protections offered by the card schemes under chargeback processes.

The main pluses and drivers for UK consumers of different payment products online might be summarised as follows:

Pluses and drivers for using **credit cards** online:	Pluses and drivers for using **debit cards** online:
• Convenience and security • Widespread acceptance • Section 75 protection[12] and chargeback processes • Collection of rewards point • Short term borrowing for high-value items	• Convenience and security • Widespread acceptance • Wider holding of debit cards • Protections offered under the chargeback processes • Demographic profile of match of debit card holding and internet usage • Price disincentive to use credit cards if transactions are surcharged • Consumers replicating their offline payment preferences when buying online

[12] Section 75 of the Consumer Credit Act 1974 which, for purchases between £100 and £30,000, entitles the borrower / cardholder to get their money back if (i) what they bought turns out to be faulty, (ii) the company they are buying from breaks its contract with them , or (iii) the company they are buying from does not deliver on what they promised, from either the business they bought from or from the lender (in this case the card company), who bear joint and equal responsibility.

2.3.2 Online Purchases – What Are UK Consumers Buying?

In total in 2011 some 836 million card payments were made online from the UK with a total spend of £63 billion. Of these 56% were made using debit cards and 44% using credit or charge cards.

UK Card Payments – POS vs Online 2011

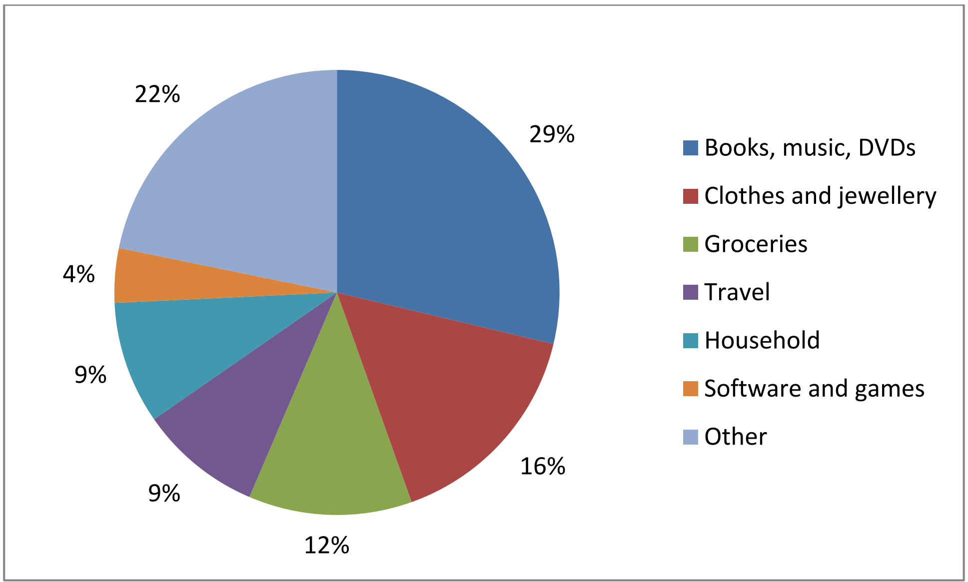
2011	POS		Online		Total		% online	
	Volume (m)	Value (£m)	Volume (m)	Value (£m)	Volume (m)	Value (£m)	Volume % online	Value % online
Credit	1,787	104,081	368	32,395	2,154	136,477	17%	24%
Debit	6,977	294,343	468	30,839	7,445	325,182	6%	9%

Source: UK Payments Statistics

The most popular items bought online are DVDs, CDs and books. Clothes and jewellery, groceries and financial services are also popular items purchased over the internet, followed by travel related purchases such as flights, tickets and hotel rooms, where comparison websites and search engines make it easier for consumers to compare prices between the high street and the internet.

In terms of what UK consumers are buying online, this is broken down as follows:

UK Consumer Internet Purchases by Sector 2010



Source: The UK Cards Association – UK Plastic Cards 2011

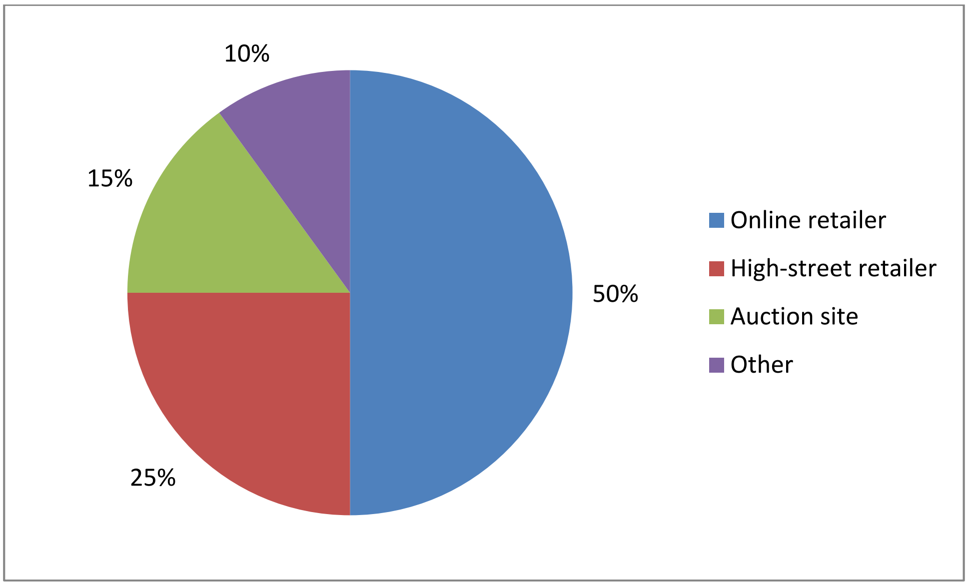
It is likely that this profile is quite different to that experienced in the physical world. For example, one third of online purchases being for low-value known-quality goods such as books, music, CDs, software and games (mirrored in the gradual disappearance of specialist music and book retailers from the UK high street). Whether these types of product lend themselves to cross-border e-commerce is another matter.

The cross-border market for books will be driven by language considerations, and to a lesser extent for music, along with national tastes and popularity. It is unlikely that there is a significant cross-border online market for grocery shopping, a further 12% of the current market. Even the cross-border online market for household goods may be influenced by factors such as import/export restrictions, differing electrical standards etc. Inevitably the cross-border market for physical goods will always be influenced by the extra delivery costs involved compared to domestic purchases.

2.3.3 Retailer Types

Half of all consumer internet purchases in 2010 were with online retailers, either general retailers such as Amazon or specialist retailers such as iTunes. High street retailers such as Tesco and Argos accounted for a quarter of internet purchase and auction sites for 15%.

UK Consumer Internet Purchases by Type of Retailer 2010



Source: The UK Cards Association – UK Plastic Cards 2011

2.3.4 Demographic Differences

Demographically speaking, men tend to predominate in online sectors such as electrical equipment whilst women are more likely to be purchasing groceries and clothes. Younger internet users are more likely to be buying groceries and clothes than those in older groups, whereas the latter are more likely to be buying household goods. Differences in purchasing behaviour among socio-economic groups are less marked with the exception of financial services, travel and household goods where there is a bias toward ABC1 adults.

In terms of recent trends:

- The total value of consumer spending online rose by 15% to £64 billion in 2010. Plastic cards remain the most prevalent payment method, and were used for over 80% of this spending (or £54 billion);
- The share of internet card spending on debit cards has been growing, representing 48% of internet card spend in 2010 compared with 33% in 2005;
- Debit cards overtook credit cards in 2010 in terms of the number of payments made online, with 389 million debit card payments and 329 million credit card payments;
- Credit cards remain more popular for internet payments with older people.

2.3.5 International Comparisons – IMRG Data

This prevalence of e-commerce in the UK is substantiated by data published by the Interactive Media in Retail Group (IMRG)[13], the representative body for UK online retailers. The IMRG data also puts the UK into an international context. According to the IMRG:

- the UK is Europe's leading e-retail economy, with sales estimated to reach €81bn in 2011 *[find out more]*
- global e-retail sales increased by almost 25% to €591bn in 2010 *[find out more]*
- the UK e-retail market is currently growing at 16% per annum, in spite of the recession *[find out more]*
- e-Retail contributed 9.4% of total retail sales in May 2011 (excluding automotive fuel): source ONS *[find out more]*
- the UK's per capita spend of €1333 per annum is the highest in the world *[find out more]*
- the digital commerce market provides employment for over 730,000 people in the UK *[find out more]*
- 37 million people shop online in the UK *[find out more]*
- more than one billion parcels are shipped from online purchases each year in the UK *[find out more]*

[13] IMRG (Interactive Media in Retail Group) is "a membership community, set up to develop and share the latest best practice advice to enable retailers to succeed in the world's most competitive online market. IMRG is the recognised authoritative voice of e-retail, supporting and promoting online shopping and digital commerce since 1990".

The IMRG also publish comparative statistics for different markets, shown on the next page, which compares relative adoption rates of e-commerce. It is clear that there is a wide divergence between those markets where e-commerce, measured in terms of average expenditure, is well-established (UK, Australia, USA) and those where adoption is, so far, relatively low (Spain, Belgium, Germany).

Whilst the overall e-commerce expenditure across markets is highly variable it is noticeable that the average expenditure among those consumers engaged in e-commerce is much less so. For example, the average expenditure among those purchasing online in Italy is comparable to other European markets such as the Netherlands, Belgium and Spain, confirming our view that:

- it is <u>not</u> the lack of availability of payment mechanisms that is an inhibitor to e-commerce, despite the perception of non-users. Once online, users do not seem to have a problem with finding suitable payment mechanisms;

- it is the lack of adoption of the internet more generally that depresses e-commerce in particular countries, and that that penetration is a result of other, probably cultural and maybe lingual, factors.

The Commission might usefully examine the reasons why consumers in certain markets are not going online, what is driving any inaccurate perception they may have regarding difficulties with payments, and what the solutions might be.

Business to Consumer E-Commerce 2010 – Europe (ranked by average expenditure)

	UK	France	Netherlands	Italy	Germany	Belgium	Spain	Czech Republic
B2C e-commerce (EUR billion)	68.5	31.3	8.2	14.4	30.0	3.6	10.1	1.3
Internet users (million)	51.4	44.6	14.9	29.2	61.5	17.1	28.1	6.7
% of population	82.4	68.6	90.0	48.4	79.8	75.0	60.9	63.0
Average expenditure (EUR)	1333	695	550	492	461	445	359	195

Business to Consumer E-Commerce – Rest of the World (Selected Markets) (ranked by average expenditure)

	Australia	USA	Japan	Canada	Brazil	China	Russia	India
B2C e-commerce (EUR billion)	20.0	200	63	12	12.8	12.0	4.4	3.1
Internet users (million)	17.1	240.0	96.3	24.0	75.9	457.0	44.0	88.0
% of population	75.8	77.1	75.6	70.0	39.0	34.0	31.4	7.4
Average expenditure (EUR)	1169	845	661	508	168	125	100	35

Source: Interactive Media in Retail Group (IMRG) Knowledge Base
http://www.imrg.org/ImrgWebsite/User/Pages/CountryProfiles.aspx?pageID=158&isHomePage=false&isDetailData=false&itemID=0&pageTemplate=14&isAllRecords=true&isArchiveData=False&parentPageID=0

2.3.6 *International Comparisons – OFCOM[14] Data*

This higher prevalence of e-commerce in the UK (and other member states) is further borne out in the recent report published by Ofcom entitled *International Communications Market Report 2011*[15], published in December 2011. This report, the sixth in an annual series, shows that:

- More than two-thirds of internet users in the UK, France, Germany and Italy use their home internet connection for online shopping;
- In 2010 the value of B2C e-commerce was almost £1,000 per person in the UK, compared to £412 in the Netherlands, £407 in France, £315 in Germany, £202 in Italy and £186 in Spain[16];
- Eight in ten UK internet users (79%) said that they had ordered goods or services online in 2010, higher than any other European country (for example just 29% in Italy claim to have done so). UK internet users were also more likely to visit retail websites online than other countries, with 89% claiming to do so in 2011;
- As well as more UK consumers shopping online, they also spend more time on retail sites – an average of 84 minutes in January 2011, compared with around 83 minutes in France, 64 minutes in Germany, 50 minutes in the Netherlands, 43 minutes in Sweden, 40 minutes in Spain, and as little as 20 minutes for consumers in Poland and Italy[17]; and
- Despite widespread consumption of digital media only a minority of internet users have ever purchased online content. Consumers in Italy were the most likely to regularly pay for online content (14%), compared to 8% in the UK, 5% in Germany and 4% in France.

2.3.7 *Conclusions re e-commerce*

The Green Paper states that, according to public consultation, "payments have been identified as one of the main barriers for the future growth of e-commerce", citing "the diversity of payment methods across member states, the costs of payments for consumers and merchants, and payment security." The consultation referred to is to be found at http://ec.europa.eu/internal_market/consultations/2010/e-commerce_en.htm.

[14] OFCOM is the UK communications regulator which regulates the TV and radio sectors, fixed line telecoms, mobiles, postal services, plus the airwaves over which wireless devices operate.
[15] http://media.ofcom.org.uk/2011/12/14/uk-consumers-are-a-nation-of-online-shoppers/
[16] Source: OFCOM International Communications Market Report 2011 p206 quoting research conducted by the Interactive Media in Retail Group (IMRG)
[17] Source: OFCOM International Communications Market Report 2011 p206 quoting research conducted by comScore Media Matrix, January 2011

Ignoring the shortcomings of this consultation (e.g. small, self-selecting and unrepresentative sample; leading questions etc.), it is our view that the Green Paper is giving a disingenuous representation of the consultation's findings. Page 4 of the summary of results of the consultation states that **"*there was no general consensus on whether payment problems exist*"**, suggesting that this is an issue of perception rather than reality. This is despite the consultation itself prompting respondents to answer leading questions relating to "payment problems".

Among the many other barriers identified and factors that discourage internet shopping, they typically rest outside of the payments industry, among those being mentioned including:

- Considerable price differences within the internal market;
- Lack of confidence of consumers in after-sales service;
- Concerns over the protection of personal data;
- Problems with delivery (high cross-border prices; lack of price transparency; regions with infrequent or no postal coverage; additional charges in rural areas; lack of harmonisation of postal addresses; lack of clarity as to responsibility in case of problems);
- Restrictions on entry to the retail market;
- Cross-border postal services; and
- Poorly functioning systems of redress.

Other factors identified in the consultation thought to be obstacles to the development of e-commerce included:

- Cultural issues;
- Infrastructure problems;
- Fragmentation of EU law in the area of IPR/copyright;
- Fragmentation of EU law in the area of consumer rights;
- Data protection issues;
- Tax issues;
- Lack of harmonisation in EU law regarding rules on sales promotions;
- Contract law issues;
- Competition issues; and
- Enforcement of existing rules.

In our view, the consultation summary seems to suggest that payment issues rank low in the list of obstacles cited. Consequently, the Green Paper would appear to be over-stating the extent to which payment issues might be inhibiting e-commerce.

The UK Cards Association does not see that this need be the case or that payment issues are hindering take-up of e-commerce among UK consumers. If consumers want a good or service and are prepared to purchase it online then the UK experience is that merchants will offer the service. We are not aware of any goods or service not being offered online for the reasons cited and would be interested in examples.

Indeed, on the contrary, we do not see how it can be argued that payments, especially card payments, can be considered a barrier to e-commerce growth when, without them, there would be no, or at best, limited e-commerce today.

Given the UK experience (and of other leading markets in e-commerce such as the US and Australia) where e-commerce is seeing ever-increasing adoption by consumers and retailers and continuing growth, and where payments are not seen to be an inhibitor, the Commission might wish to consider why citizens and retailers in other member states have not yet embraced e-commerce in the same way.

2.4 Mobile Payments

This section of the Green Paper begins by defining mobile payments as “payments for which payment data and the payment instruction are initiated, transmitted or confirmed via a mobile phone or device.”

This definition overlooks the mobile device as an acceptance device, in our view a major oversight.

There are currently around 1.25 million[18] point-of-sale terminals in the UK, the number of which stands to be dwarfed by potentially many tens of millions of mobile phones and other devices that will ultimately be able to accept P2P payments. The importance of this issue is that, depending on the underlying model, the payment system providers may lose visibility of what the acceptor is doing, reducing the influence that it can exercise over the merchant (or the consumer in the case of P2P payments) in terms of ensuring security and integrity and reducing the capability for banks to manage risk and fraud. The risk of money laundering through P2P systems will also need to be addressed through adequate anti-money laundering (AML) solutions.

Furthermore in this section:

- The UK Cards Association agrees with the statement on page 5 of the Green Paper that “the line between e-payments and m-payments is blurred – and may become even more so in the future.” We think that this is increasingly becoming an academic and artificial distinction that, if continued to be used, will only constrain thinking and inhibit the evolution of existing payment products and the development of new payment services.

- We agree that payments through mobile phones are currently experiencing the highest growth rates among all payment methods, though this is from a relatively low base compared to regular card purchases over internet. Our own research shows that there was a 31% increase in the number of UK adults accessing the internet through their mobile phone in 2010, rising to 8.9 million. Nonetheless, we are doubtful of the relevance of this statement.

- It is unreasonable to compare the current penetration of mobile payments in European with that of Asia where figures are heavily distorted by the Japanese market. Roughly 70% of phones in Japan are enabled for contactless (where the Felica payment application is pre-loaded on all phones) with about 85 million subscribers.

[18] Source: The UK Cards Association – UK Plastic Cards 2011

Accurate reports on how many of these are actually used for payments are difficult to obtain. It is not even clear if the proximity schemes can distinguish between a card or a mobile contactless payment. According to information we have received from Consult Hyperion[19], a little over one third of proximity payments in Japan are made using a mobile. A reasonable assumption would be that around 30 million subscribers in Japan use mobile contactless.

SIM inserts are issued in China, with estimates of 3.5 million users from China Telecom. According to Consult Hyperion nowhere else has significant numbers of mobile contactless users. South Korea has c100,000 users – but this is expected to grow now that the market is promoting NFC. Malaysia, Singapore and Taiwan have some users as well, but this is not thought to be in the millions. As yet there has been no significant adoption in Australia and New Zealand.

The other key mobile payment type is money transfer. Schemes in the Philippines (e.g. G-Cash, Smart) have been somewhat successful with an estimated 8 million users.

Mobile payments can also mean payments to billing accounts (achieved via premium SMS or WAP billing in most GSM markets or via iMode in Japan) which is done by millions of consumers in most markets worldwide.

It is therefore difficult to assess whether the European market is slower to adopt new technology where the ability to compare like with like is compromised. However, it does seem that where contactless terminals are rolled out mobile contactless payments flourish. One of the defining factors is the availability of NFC enabled phones which are only just being sourced by mobile network operators in Europe.

- Finally, The UK Cards Association agrees that "efforts for m-payment integration at European level currently take place on a self-regulatory basis" but we question how the Commission could effectively 'mandate' co-operation. The Commission may be able to facilitate co-operation by identifying those elements of legislation and regulation that inhibit co-operation such as fears around Competition Law and inadvertent or unintended constraints created by, say, the PSD.

[19] Consult Hyperon are a UK-based consultancy firm that position themselves as thought leaders in digital money and digital identity who help organisations around the world to exploit new technology for secure electronic transaction services from mobile payments and "chip & PIN" to contactless ticketing and smart identity cards. See http://www.chyp.com/

3. Vision and Objectives

3.1 Consumers

The UK Cards Association does not necessarily disagree with the statement on page 6 that consumers may have a wish to be able to rely on “one single bank account for all payment transactions”, though no evidence is presented to back this statement up. However, whether this is consumers’ wish or not, this is not typical of UK consumers at present who tend to have multiple financial holdings and payment products. We are not aware of any evidence that suggests consumers see this as a significant problem.

For example, it is common for a UK consumer to have one or more personal current account offering direct debits, standing orders, Faster Payments, cheques, debit cards and other forms of payments but to also have separate (often multiple) credit card accounts or PayPal accounts. In future, it is likely that consumers will have more accounts, not less, as new electronic payment products come to market. Consumers choose the appropriate payment method for them for any given transaction. In the future, improved technology that makes it easier to run different payment applications from a single device could lead to consumers having more providers, as holding access to different providers’ products thorough a single device becomes easier.

Multiple Financial Holdings (GB only) 2010

Product	One	Two	Three	Four+	None	Average number of current accounts per holder
Current accounts	48	32	10	4	6	1.72
Among which:						
Debit cards	50	34	11	4	1	1.74
Credit cards	46	37	12	5	1	1.81

Source: UK Payments Council Consumer Payments Survey 2011

Multiple financial holdings are closely correlated with social class and household income, with the wealthier typically having more accounts, as would be expected. Age is not a significant differentiator other than for those aged below 24, who tend to have less accounts.

3.2 Merchants

In this section the Green Paper revisits a recurrent theme that permeates the entire paper – that efficiency of the card payment system is synonymous with costs to merchants for accepting payments being 'cheap', with no balancing argument relating to the merchant and consumer benefits on offer. In this instance the Green Paper argues that "increased competition makes alternatives to the handling of cash more attractive". However, there is little agreement over the relative cost of different methods of payment.

For example, The UK Cards Association would subscribe to the view that cash is the most *expensive* method of payment not only for merchants, but also to the overall economy. However, the British Retail Consortium (BRC)[20] publishes an annual study[21] that claims that cash is the *cheapest* method of payment for its members to accept. Whilst we might have our concerns over the methodology used in this study, there is little doubt that some UK retailers do subscribe to this view. The conclusion The UK Cards Association draws from this study is not that card payments are too expensive (the BRC's conclusion) but that specific, often larger, merchants benefit from cross-subsidisations that are distorting the market and their view of the world.

There will also be substantial differences among businesses depending on whether they are operating in just one member state or on a multi-national basis.

3.3 Payment Service Providers

The UK Cards Association would question the assumption that payment service providers are able to benefit from scale effects through standardisation of payment instrument <u>within Europe</u> alone. We suspect that payment service providers would see greater benefit from standardisation on a <u>global</u> scale.

3.4 Technology Providers

Similarly to the above, The UK Cards Association suspects that technology providers would prefer to base their development work and solutions on <u>global</u> instruments rather than limiting themselves to Europe.

In both the case of payment service providers and technology providers, there is a balance to be drawn between standardisation as an enabler and standardisation as something that stifles innovation. It is also critical that the European Commission does not create any uncertainty (or global scale imbalances) with proposals for regulation in this sphere.

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[20] The British Retail Consortium (BRC) is the lead trade association in the UK representing the whole range of retailers, from the large multiples and department stores through to independents, selling a wide selection of products through centre of town, out of town, rural and virtual stores. See http://www.brc.org.uk/brc_home.asp

[21] http://www.brc.org.uk/brc_news_detail.asp?id=1984 for 2011 study

4.1 Market Fragmentation, Market Access and Market Entry Across Borders

4.1.1 Multi-lateral Interchange Fees

1) Under the same card scheme, MIFs can differ from one country to another, and for cross-border payments. Can this create problems in an integrated market? Do you think that the divergence in the terms and conditions of the card markets in different Member States reflects objective underlying differences in these markets? Do you think that the application of different fees for domestic and cross-border payments could be based on objective reasons?

2) Is there a need to increase legal clarity on interchange fees? How and through which instrument do you think this could be achieved?

3) If you think that action on interchange fees is necessary, which issues should be covered and in which form? For example, lowering MIF levels, providing fee transparency and facilitating market access? Should three-party schemes be covered? Should a distinction be drawn between consumer and commercial cards?

Paragraph 1 of section 4.1.1 states that interchange fees can be agreed bilaterally between issuing and acquiring banks or multilaterally. Whilst bilateral agreements are possible, it is prohibitively costly and logistically impractical to expect banks to negotiate bilateral relationships in the numbers required on a national basis or within Europe, never mind globally. Multilateral agreements save time and money and are crucial to enabling the operation of a fully-functioning inter-operable system where participants have entered into bilateral agreements, or indeed may have no direct knowledge of one another.

Paragraph 2 rightly states that interchange fees have been looked at by competition authorities and regulators for some time. This unresolved scrutiny over such a significant issue for such a long time has the effect of creating uncertainty over future revenues and therefore impedes the ability of the industry to make key investment decisions for the future, not knowing if it is going to be able to recover its costs over the long term. Such scrutiny dictates short-termism at best, or status quo at worst, with the net effect being planning blight.

Paragraph 3 of this section says that “the usual justification for MIFs in this context is that they provide a basis for issuing banks to incentivise consumers to use a payment card”. Given the Commission’s knowledge of, and familiarity with, interchange it is surprising to see such a misrepresentation of the purpose of interchange in the Green Paper.

References to three-party schemes in paragraph 6 claim that "an implicit interchange fee exists that may raise similar issues of lack of competitive constraints". This would seem to imply that three-party schemes ought to be viewed as akin to four-party schemes, when the two are quite different, as explained in the footnote below[22]. Three-party schemes do not operate on the basis of MIF arrangements.

Four-party transactions are the result of joint production where simultaneous co-operation is required by the acquirer and the issuer for a transaction to occur. However, costs do not fall equally between the issuer and acquirer.

Also, the accompanying FAQs with the consultation document state that "the business model in the payments-card sector is dominated by inter-bank fees commonly agreed between payment service providers, also known as…MIFs". This statement is fundamentally wrong in that it ignores the importance of other major revenue streams for credit card issuers such as interest fees and charges, where the success or otherwise of the business model for a given product may be determined by its emphasis on transactions and/or lending as sources of revenue, which will also influence the product design. The FAQs also assert that the MIF model is one of "high profitability for banks".

The UK Cards Association estimates that the profit margin for UK credit card issuers is currently in the region of 1.5%-3%, a figure we quoted in our response to the UK Government's consultation "*Managing Borrowing & Dealing With Debt*", submitted December 2011[23].

Interchange is a means of correcting the imbalance in costs incurred by each party in a four-party card payment system in order to optimise the output of payments networks (volume of transactions) to the benefit of all. The costs of providing services tend to fall disproportionately on issuers. If there were no balancing mechanism and these costs were to fall exclusively on issuers, this would require them to be passed even further on to cardholders. The transaction would become highly desirable for merchants since there would be no cost of acceptance, but very unpopular with consumers because of the associated cost of making a transaction. Balancing cost is essential to making the scheme attractive to cardholders and merchants in a way that maximises their use of the payment product.

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[22] In terms of the difference between four-party and three-party schemes, our understanding is that, for example, American Express licensees do not have the ability to agree on fees in relation to its network, either collectively or directly with each other, or indeed any other aspects of the American Express network. Licensees contract directly and only with the company for network services. All terms are negotiated individually, and all transactions and fees are settled independently and bilaterally between the company and each licensee, to the exclusion of any other licensee. Furthermore, licensees play no role in the management of American Express and are not represented, directly or indirectly, in any governance bodies of the company. Relationships between American Express and its licensees are strictly at arms' length, between independent and unrelated parties. Where American Express partners with a licensee, this does not make the network a 4-party network and therefore should not be regarded as such.

[23] http://www.theukcardsassociation.org.uk/-/page/call-for-evidence-response_dec2010/ See page 4 where we say: "Discussion with our Members suggests that margins for main stream credit card companies are typically currently in the region of 1.5% to 3%. However, there may be variations around these figures due to different business models operated by different card companies and that the component costs (such as cost of funding and default costs) can vary cyclically" and subsequent paragraphs.

In general, the typical costs that are relevant for computing the interchange fee include:

- The payment guarantee covering both fraud and credit losses (given that the retailer receives their monies long before the cardholder has to pay their issuing bank);
- Funding the interest free period (the period between when a cardholder spends on their account and when they pay their credit card balance;
- Security and fraud prevention (e.g. authorisations; hot card files etc);
- Card issuing and transaction processing costs;
- Innovation, such as chip & PIN or contactless card payments.

There is every reason to suppose that these costs will differ between EU countries so consequently, with regard to Question 1, it is natural for MIFs to differ from one country to another, though cross-border MIFs are set at a common level. This will reflect the cost-based nature for calculating MIFs which will depend upon objective factors such as market maturity; penetration of cards and terminals; transaction volumes; debit/credit split; fraud experience; pace of innovation etc. The UK Cards Association does not see that this creates problems in achieving an integrated market. It is equally probable for the costs associated with all other non-card methods of payment, including cash, to differ between member states.

The Commission also overlooks the important role that the discounting of interchange has played in driving the adoption of improved security measures (such as online authorisations; chip & PIN; secure e-commerce etc). The payment scheme is able to incentivise migration on the basis that prior reduction in the interchange fee will drive good behaviour which itself delivers a future reduction in the overall operating costs of the scheme. The use of interchange to achieve this is highly likely to differ between countries on the basis of the issues associated with different markets and the desired outcome.

With regard to Question 2, assuming that legal clarity is synonymous with certainty then, yes, there is a need for certainty to avoid the planning blight mentioned earlier. The current pending court case between the Commission and MasterCard may provide some of the certainty required, though we must acknowledge that any judgement reached in the near term is likely to be appealed by either or both parties.

In addition, we understand that the Commission is, independently of the legal proceedings, exploring the potential applicability of the *Merchant Indifference* theoretical models to setting MIFs. Agreeing the methodological assumptions and collation of appropriate data in different markets would appear to be quite an extensive exercise which could take considerable time to compete, with no guarantee that any of the relevant parties will agree with or accept any findings reached. The fast pace of development in the payments market means that there are considerable risks that any conclusions will be out of date or irrelevant by the time they are published. We foresee significant effort being required to keep data sets up to date and relevant to new and emerging payment mechanisms and schemes.

In our view it is inappropriate and unnecessary for the Commission to act as a price regulator in the payment market. It is already a competitive market place where new entrants and product innovations accentuate competition. The price charged to consumers for any payment products together with the ability for merchant discounting or surcharging are very effective and appropriate mechanisms which enable market forces to drive pricing.

The UK Cards Association therefore regards Question 3 as misplaced. The key question for the future, particularly with the development of mobile payments, which potentially introduces more participants into the value chain, is how costs are spread between consumers, merchants, card issuers, merchant acquirers, MNOs, hardware providers, software developers etc. where the current MIF model does not naturally apply, especially when significant investment is required by some or all of these parties. For example, pursuing issues (beyond transparency) such as lowering MIF levels, or drawing distinctions between consumer and commercial cards, are unlikely to do anything other than impede innovation and development.

4.1.2 Cross-Border Acquiring

4)	Are there currently any obstacles to cross-border or central acquiring? If so, what are the reasons? Would substantial benefits arise from facilitating cross-border or central acquiring?
5)	How could cross-border acquiring be facilitated? If you think that action is necessary, which form should it take and which aspects should it cover? For instance, is mandatory prior authorisation by the payment card scheme for cross-border acquiring justifiable? Should the MIFs be calculated on the basis of the retailer's country (at point of sale)? Or should a cross-border MIF be applicable to cross-border acquiring?

Bullet point 2 states that "the cross-border PSP has typically not signed up to the domestic MIF concerned which is set by the PSPs in the country concerned". This is incorrect as far as MasterCard MIFs are concerned in the UK which, we understand, are set by MasterCard, <u>not</u> the banks.

With regard to Question 4, the main obstacle to cross-border acquiring continues to be the existence of domestic debit card and credit cards schemes (see also our answer to Question 12) which does disadvantage cross-border acquirers who may be obliged to offer merchants services for a multitude of niche payment products in order to be able to compete in the market. Otherwise merchants would end-up with the possibility of having to contract with multiple acquirers acquiring different card types.

Secondary problems might include licensing requirements; settlement issues; joint branding/badging; and variations in the use of online and offline PIN between markets, some of which are being used to protect markets from new entrants.

However, it is important for cross-border acquirers to follow domestic rules – even for global schemes – which are put in place to meet particular market needs. For example, specific rules were required in the UK and France to enable these markets to lead the rollout of chip & PIN, such as measures to remove PIN bypass and offer special chargeback rights etc.

With regard to Question 5 it would seem to us that the MIF applicable to centrally-acquired transactions (given its rationale) should be that of the country of the card issuer, though we understand there may be arguments to support the view that it should be that of the country of the merchant to reflect local market conditions.

4.1.3 Co-badging or Co-branding

6)	What are the potential benefits and/or drawbacks of co-badging? Are there potential restrictions to co-badging which are particularly problematic? If you can, please quantify the magnitude of the problem. Should restrictions on co-badging by schemes be addressed and, if so, in which form?
7)	When a co-badged payment instrument is used, who should take the decision on the prioritisation of the instrument to be used first? How could this be implemented in practice?

Co-badging or co-branding on payment cards themselves is no longer an issue in the UK since the consolidation of Europay (which was subsumed by MasterCard in 2001) and Switch (which became Maestro in 2004) into MasterCard, though many UK-issued cards are co-badged with LINK, the domestic UK ATM network.

There has been a long history of brand creation and consolidation or withdrawal in the UK[24]. The UK Cards Association believes that the market adapts to branding and co-branding through strategic alliances that make commercial sense to each of the parties involved on a voluntary basis and offer consumers tangible benefits.

We do not see the logic in creating a regime where competing brands e.g. Visa, MasterCard, American Express, JCB, Diners, Discover etc. are obliged to co-exist on the same piece of plastic and cannot think of any other industry where this might be considered or occurs in practice.

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Brand Creation and Withdrawal in the UK

Brand creation and withdrawal in the UK and UK brands' co-existing on the same cards as international brands have been a feature of the market since the earliest days of cards, and have included (*all dates approximate*):

- Creation of the Access credit card brand in 1972 (which lasted until the early 1990s);
- Early 1980s – duality introduced into the UK with card issuers able to issue both Visa and MasterCard brands;
- Creation of the Visa Delta debit card brand in 1987;
- Creation of the Switch domestic UK debit card brand in 1987 (which became Maestro in 2004);
- Merger of the LINK and Matrix ATM network brands in 1989;
- Creation of the Maestro international debit card brand in 1992;
- Creation of the short-lived Mondex e-money brand in 1995;
- Creation of the Visa Electron online debit card brand in 1996;
- Creation of the Switch Solo domestic UK online debit card brand in 1997 (which lasted until 2009);
- Merger of the Europay and MasterCard brands (commencing in 2001);
- Rebranding of Switch cards as Maestro in 2004.

The bigger issue around co-branding to be addressed is overlooked in the Green Paper, where multiple payment applications are bound to reside on one common device held by the consumer. It is difficult to see how any other party other than the consumer could possibly decide on the selection of the appropriate payment application according to their own unique and individual preferences and the circumstances of the transaction, though this raises issues over the management of consumers' expectations and different security standards etc.

The existence of surcharging and the means by which retailers can incentivise payment acceptance according to their own preference provides an effective counter-balance to ensure that consumer choice can be influenced and that there is effective acceptance cost constraint.

The future needs to reflect an environment where:

- different payment applications co-reside on, for example, the same mobile device;
- the consumer will choose to select one above the others;
- and, at which point in the transaction, these will be visible to the merchant and how this correlates with those that the merchant accepts; and
- addition, deletion and portability of payment applications occurs.

Conceivably payment applications under the different existing brands (Visa, MasterCard, American Express, other international and domestic debit and credit card schemes) could co-reside on the same device along with any number of new payment brands and MNO brands. Other brands e.g. Transport for London's (TfL) mass transit Oyster brand, effectively a closed-loop payment product, may also be present and therefore could also be of relevance.

Specifically, with regard to Question 6, The UK Cards Association does not believe that any restrictions (or, indeed, requirements) by card schemes on co-branding should be addressed. These should be purely commercial arrangements that make sense to all parties. However, the principle that a consumer can currently choose to have (and not be prevented from having) multiple cards bearing different brands in their wallet should be the same for their mobile device, where multiple applications bearing different brands may reside on their single mobile device.

With regard to Question 7, The UK Cards Association believes that it should always be the consumer who takes the final decision on which payment instrument is used first (among those that the merchant accepts). Indeed, we believe that this is already embodied in paragraph 3.6.1 of the SEPA Cards Framework relating to the 'Cardholder Experience'. Any other party, such as the merchant, may choose a payment instrument that is at odds with the consumer's ability to fund a specific purchase, such as their choice or need to use credit or not, or could result in an extra fee (or fees) for the cardholder applied by the merchant and/or the provider of the payment application.

For mobile contactless payments we expect the customer to be given the option to set a default application on the handset and the ability to control which of the applications are active ahead of presenting the handset to the retailer. This effectively removes the retailer from the application selection process and leaves full control in the hands of the consumer.

4.1.4 Separation of Card Schemes and Card Payment Processing

8)	Do you think that bundling scheme and processing entities is problematic, and if so why? What is the magnitude of the problem?
9)	Should any action be taken on this? Are you in favour of legal separation (i.e. operational separation, although ownership would remain with the same holding company) or 'full ownership unbundling'?

The UK Cards Association's understanding is that both Visa and MasterCard have already taken steps to separate scheme from infrastructure and ensure that they operate independently and without cross-subsidy. Their rules allow processing choice and there are examples of where this operates in practice today. In our mind 'legal' separation and 'full ownership unbundling' are not only unnecessary but may also be damaging. In particular the costs of achieving this seem disproportionate to any benefit derived. The Green Paper does not identify and fundamental concerns that would justify mandatory legal or ownership separation.

4.1.5 Access to Settlement Systems

10)	Is non-direct access to clearing and settlement systems problematic for payment institutions and e-money institutions and if so what is the magnitude of the problem?
11)	Should a common cards-processing framework laying down the rules for SEPA card processing (i.e. authorisation, clearing and settlement) be set up? Should it lay out terms and fees for access to card processing infrastructures under transparent and non-discriminatory criteria? Should it tackle the participation of Payment Institutions and E-money Institutions in designated settlement systems? Should the SFD and/or the PSD be amended accordingly?

With regard to Question 10, The UK Cards Association is not convinced that non-direct access to clearing and settlement systems is, as is claimed, problematic for payment institutions (or PSPs) provided there is sufficient competition among settlement banks to provide these services. PSPs always have the option of becoming banks and joining the relevant settlement systems in their own right.

It is our understanding that where PSPs hold deposits they are subject to less stringent capital adequacy requirements and, as such, present a higher risk to the system. For this reason they are not permitted to participate directly in all settlement systems. However, with the payment market effectively being opened up to such emerging participants, regulators will have to ensure that consumers and retailers are protected from the default risk that comes with the new players, which ultimately will presumably have to be underwritten by taxpayers.

With regard to the magnitude of the problem, The UK Cards Association's view is that, with regard to Authorised Payment Institutions (APIs), this issue has already been addressed through the Payment Services Regulations (PSRs). Part 8 of the PSRs prohibits prescriptive rules on access to payment systems for APIs. In the UK, organisations such as Capital One, a major UK credit card provider, have been able to choose to switch status to an API whilst still being able to access the relevant systems.

With regard to Question 11, The UK Cards Association does not see the need for a common cards-processing framework within SEPA (where existing card processing rules/frameworks, which may not be SEPA specific, are sufficient). We do not see that participation of Payment Institutions and E-money institutions is worth pursuing whilst there are bigger, more profound and difficult issues to be resolved in first achieving a mobile payment vision.

There appears to be no real evidence or business justification for activity in this area. Any attempt at setting processing rules or developing new requirements is very likely to restrict innovation and stifle competition.

In relation to authorisation policies and processes, The UK Cards Association has at various times in the past undertaken significant explorations in to the optimal level of authorisations for the industry which attempt to balance the cost of authorisations against the benefits in credit control and fraud reduction. Current work is looking at the benefits of online authorisations in delivering opportunities for SMS transaction confirmation services and contactless authentication.

A prescriptive regulatory approach to these matters is unlikely to be helpful and would be of questionable benefit. At this point in time, with emerging mobile payment options being developed, it is essential that the market has the freedom to develop new products and services for the consumer without being bound by unnecessarily strict processing rules. It is highly unlikely that the EC could work fast enough to aid this development

4.1.6 Compliance with the SEPA Cards Framework (SCF)

12)	What is your opinion on the content and market impact (products, prices, terms and conditions) of the SCF? Is the SCF sufficient to drive market integration at EU level? Are there any areas which should be reviewed? Should non-compliant schemes disappear after full SCF implementation, or is there a case for their survival?

The SEPA Cards Framework (SCF) was developed by the industry in response to the SEPA vision expressed by the Eurosystem and the Commission. The UK remains a supporter of the SCF. This committed all card issuers and acquirers to conduct their business only via SCF-approved schemes.

The UK has met its obligation under the SCF in full. If, as is implicit in Question 12, there is now sympathy from regulators for the perpetuation of non-SCF compliant schemes, then this will cause all issuers and acquirers throughout Europe to reconsider their positions. For example, an acquirer which is currently fully SCF-compliant could not afford to ignore involvement in a non SCF-compliant scheme if it became a significant market player.

We do not know the extent to which current schemes across Europe remain non-complaint. Nevertheless we would encourage the Commission to ensure that banks in other markets similarly deliver to this commitment. Co-badging or migration of domestic schemes to existing schemes with an international reach is the only way to achieve this quickly.

In our view Europe does not offer a broad enough market for the development of a new card scheme. Consumers demand cards that can operate at a global level so a new global acceptance infrastructure is required form the outset. However, mobile and other e-payment schemes have the ability to grow organically working form domestic markets as a base. Consumer expectations of these payment mechanisms is currently more narrowly focussed than for cards and national boundary constraints are not a barrier to launch in a controlled and restricted environment,

In the absence of a commercially viable business case, and the long-lasting uncertainty regarding the legality of interchange fees, the prospect of a new four-party scheme is limited. European banks are insufficiently resourced and have other more pressing matters than to invest in infrastructure which, as a result of the pace of innovation, may not be a sustainable investment.

NB: for clarity the UK position on a 'third debit card scheme' for Europe remains unchanged. UK issuers and acquirers would welcome competition from both new entrants, including expanded or combined domestic debit card schemes, but note that there is already significant competition between global schemes, whether four-party or three-party schemes and other forms of payment.

4.1.7 Information on the Availability of Funds

13)	Is there a need to give non-banks access to information on the availability of funds in bank accounts, with the agreement of the customer, and if so what limits would need to be placed on such information? Should action by public authorities be considered and if so, which aspects should it cover and which form should it take?

The UK Cards Association is puzzled by this section of the Green Paper and what it is meant to address. Merchants already have the option to mitigate the risk that the cardholder does not have sufficient funds available through the well-established authorisation process. Conceptually we do not see a difference between merchants and other PSPs in this context.

This would appear to go the heart of whether providing a payment mechanism can be decoupled from credit risk. The principle benefit of the current card payment model is that, by providing a payment guarantee, the burden of risk assessment is removed from the merchant. New payment providers may have an appetite to take limited risk for small value payments but this may be limited for higher value payments. Were the transaction value of a given payment mechanism to be capped, the lower that cap the less value there would be in the consumer proposition.

One way of reading the paragraph is that it suggests a scenario where third party PSPs are not facilitated by any form of pre-funding by the consumer and take on responsibility for part of the lending decision, with the bank operating as some kind of credit bureaux. This is illogical in the way in which it mixes up the established roles and expertise of different types of institution to no obvious benefit. If PSPs wish to know the availability of funds then this should be on the basis of funds lodged with them or the credit limit they are prepared to grant, as with any lender. If a PSP is prepared to take a credit risk it can already offer payment services. It seems wholly inappropriate to reduce the credit risks associated with the provision of a payment service by imposing legal obligations on their natural competitors.

Many credit card providers (who may also be banks but are often stand-alone companies) do not have, or need, information on their customers' funds in, for example, the customer's personal current account, to provide payment services. Non-banks do not need access to available funds information. They will have assessed the risk on the basis of the information made available to them by the consumer and from other sources (such as credit reference agencies) and made decisions on the amount of funds they are willing to extend to the consumer. The UK Cards Association does not see why other PSPs should be any different. The way in which the question is asked (is there a need to give 'non-banks' access to information) when other banks do not have access to this information implies that the Commission supports skewing the market in favour of non-banks.

It also seems impractical to establish processes where PSPs could make a decision in relation to executing a payment on the basis of information received concerning the availability of funds since there would be no guarantee that, when the funds came to be claimed by the PSP, they would still be there to draw against. This also assumes that the merchant has sought an authorisation in the first place.

We imagine that the only way to prevent this would be for some earmarking of funds in the bank account but the concept of banks earmarking funds on the basis of a request from external third parties poses difficult questions. For example, how would a bank rank competing claims against the balance? What would it do if the account holder countermanded or disputed an ear-marked amount being held in contemplation of a future transaction? How long would the PSP have to conclude the transaction?

This uncertainty would be intolerable for consumers and potentially prevent them from accessing their own funds that should be at their disposal. This gives rise to concerns around consumer detriment.

In the UK this is in part addressed by the Financial Services Authority Approach Document to the PSRs which states that “the aim of the PSD provisions in respect of execution times is to mandate and harmonise the speeding up of payments, so the maximum time taken when neither the payer nor the payee has access to the funds should be one business day”.

4.1.8 Dependence on Card Payment Transactions

14)	Given the increasing use of payment cards, do you think that there are companies whose activities depend on the possibility to accept payments by card? Please give concrete examples of companies and/or sectors. If so, is there a need to set objective rules addressing the behaviour of payment service providers and payment card schemes *vis-à-vis* dependent users?

We do not think that any merchant, whether in the physical or in the online world, is dependent on payment cards. In the physical world there are alternatives such as cash and cheques; in the online world there are alternatives such as bank transfers, PayPal etc. In addition, new payment methods and providers are emerging, in some cases backed by big companies prepared to compete head-to-head with card payment providers (e.g. Google, Amazon, Apple etc). In light of the competitive conditions in the market place, including these new payment methods, it would be quite wrong to introduce regulation which stands to distort competition and impede innovation.

Consumers are not required to hold and use payment cards and merchants are not obliged to accept them. However, there is no denying that card have become the consumers' preferred payment method both in the physical world and online, despite the availability of alternatives such as cash, cheques, electronic payments etc. The popularity of cards online is not a conspiracy of the card industry, but a reflection of consumers' preferences and the practicality of translating physical payment methods (cheques, cash) into the virtual world. But ultimately it is not the physical card that is being used to make online purchases – merely the card details i.e. the account details, implying that the card itself is superfluous.

However, payment mechanisms used for e-commerce are not exclusively cards. As noted in Section 2.3.1, for the UK:

- In 2010, 35% of online shoppers (around 13 million UK adults) used PayPal online and a smaller number (around 3 million) used other methods such as cheques, vouchers, Neteller and Nochex or charged items to their internet service provider account;

- PayPal is a popular means of paying for goods on auction sites and use was highest among young adults and adults in higher socio-economic groups. 44% of internet shoppers aged 25 to 34 used PayPal to pay online in the last year, compared with 26% of those aged 65 and above.

Presumably if more merchants chose to accept these alternative payment mechanisms, then they would be more popular with consumers.

Also, whilst it is true to say that cards have increasingly become the payment mechanism of choice for consumers, the UK experience is that this is not the same for debit and credit cards where debit is increasing in popularity whilst credit cards are in relative decline.

Merchants will accept those payments online that they deem necessary and for which they can develop a business case. For example, presumably driven by consumer preferences, and a strong cross-border element to their businesses, the online gambling sector is quite advanced in terms of the variety of international and domestic payments schemes for which they will accept payments, both from within and from outside Europe.

888.com, a typical gambling site (albeit located offshore in Gibraltar) has the following content on its website regarding the payment methods accepted, both from within Europe and outside Europe, via the site:

888.com – Accepted Payment Methods

Accepted Payment Methods

Below is a list and short description of each deposit method offered by 888.com. For complete instructions on how to make a deposit using any of the methods from the list, please click here.

Deposit methods that can also receive withdrawals

VISA credit card and Debit cards	A fast and easy method to make direct deposits to your 888.com Account. Available to members worldwide.
MasterCard (withdrawals via BACS for UK issued cards only)	A fast and easy method to make direct deposits to your 888.com Account. Available to members worldwide.
Bank Transfer	An offline method of transferring funds to your 888.com account at your local bank.
CashUp	CashUp is a prepaid card that offers an instant, secure and easy way to fund your account.
ClickandBuy	An instant, secure and easy way to fund your 888.com account by using a variety of local payment methods.
Chinese Debit Cards	A service that enables Chinese members to deposit with debit cards from their local bank.
Commerzbank	For our members in Germany, Commerzbank is a convenient online bank transfer method.
Deutsche Bank	For our members in Germany, Deutsche Bank is a convenient online bank transfer method.
eNets	For our members in Singapore, eNets is a leading online gateway that allows you to fund your 888.com account with real-time bank transfers from local banks.
EntroPay Virtual Visa Card	EntroPay is a reloadable virtual VISA card that can be used to pay online just like a regular VISA card. EntroPay VISA cards can be funded from your personal credit or debit card.
Laser Debit Cards	For our members in the Republic of Ireland, Laser Debit Cards are a fast and easy method to make direct deposits to your 888.com account.
NETELLER	For our members worldwide, NETELLER Deposits are an instant, secure and easy way to fund your 888.com Account, directly from your NETELLER Account.
Netpay	For our members in Austria, Netpay is a secure, convenient online bank transfer method.
PayPal	PayPal deposits are available in Spain, UK, Ireland, Italy, Portugal, Finland, Denmark, Austria and Sweden and are an instant, secure and easy way to fund your 888.com Account.
Pay&Play	Pay&Play is our very own branded card that can be used to easily fund your 888.com account. The card can be used to fund your account instantly and is available in a wide range of countries.
PayBox	For our members in Austria, PayBox allows you to deposit to your 888.com account via cellular phone.
POP	For our members in Austria, POP is a secure, convenient online bank transfer method.
Postepay & Kalibra	Postepay & Kalibra are prepaid rechargeable cards. Postepay is issued by Poste Italiane and may be purchased at any Italian post office or Kiosk. Kalibra cards can be purchased at Banco Popolare branches.
Moneta	For our members in Russia and the Ukraine, Moneta is a real-time online bank transfer service that offers you secure payments to 888.com without using cards. Moneta accepts a variety of local payment methods

Skrill (moneybookers)	For our members worldwide, Skrill (moneybookers) deposits are an instant, secure and easy way to fund your 888.com Account.
WebMoney	WebMoney is a multifunctional payment tool that provides secure and immediate transactions online. WebMoney can be used in the following countries: Armenia, Azerbaijan, Estonia, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Russia and Uzbekistan.
Qiwi VISA Virtual	QIWI VISA Virtual is an online account that gives you a prepaid virtual VISA card that you can use to deposit funds. This Virtual VISA card can be used for online purchases wherever VISA is accepted. It is a safe way to spend online if you do not have a credit card, or do not want to use your credit card online. For more details on QIWI VISA Virtual, click here.
Ewire	An eWallet that enables easy, instant and secure payments. Ewire is available in Sweden and Denmark and can be funded using Dankort debit cards, Visa, MasterCard or through online banking.
Deposit methods that can't receive withdrawals	
Abaqoos	For our members in Hungary, Abaqoos is an e-wallet service designed to enable customers to purchase goods and services securely online without using a debit or credit card. Abaqoos can be used by OTP Bank customers
Boleto	For our members in Brazil, Boleto deposits can be sent in near real time depending on your local bank clearing system. However, transfers may also take between 2-5 business days to arrive.
Dankort Powered by Skrill (moneybookers)	For our members in Denmark, using Dankort to deposit is an instant, secure and easy way to fund your 888.com Account using your Dankort card.
Diners credit card	A fast and easy method to make direct deposits to your 888.com Account. Available to members worldwide.
eKonto	eKonto is a fast and secure online bank transfer service designed to connect customers and merchants. eKonto is linked to Raiffeisen Bank or eBanka. To start using eKonto must have access to online banking.
GiroPay Powered by Skrill (moneybookers)	For our members in Germany, using GiroPay to deposit is an instant, secure and easy way to fund your 888.com Account, directly from your Bank Account.
iDeal	For our members in the Netherlands, using iDeal to deposit is an instant, secure and easy way to fund your 888.com Account.
Nordea Powered by Skrill (moneybookers)	For our members in Finland and Sweden, using Nordea to deposit is an instant, secure and easy way to fund your 888.com Account, directly from your Bank Account.
PayPoint - Print & Pay Voucher and eVoucher	A pre-paid voucher for residents of the UK. Can be purchased at any PayPoint location
P24 Powered by Skrill (moneybookers)	For our members in Poland, using P24 to deposit is an instant, secure and easy way to fund your 888.com Account, directly from your Bank Account.
paysafecard	For our members in the UK, Czech Republic, Sweden, Denmark, Poland, Austria, Germany, Greece, Slovenia, Portugal, Netherlands, Belgium, Spain, Cyprus, France, Ireland, Italy, Luxemburg, Serbia and Switzerland paysafecard deposits are an instant, secure and easy way to fund your 888.com account. Paysafecards can be purchased at any Paysafecard location.
POLi	For our members in Australia and New Zealand, using POLi to deposit is an instant, secure and easy way to fund your 888.com Account.
Przelewy 24	For our members in Poland, Przelewy24 is a secure and fast online bank transfer service designed to pay online. Przelewy24 is linked to all the major banks in Poland
SEB Pank	For our members in Estonia, deposit to your account using SEB Pank which allows you to make instant and secure payments directly from your bank account.
Sofortuberweisung/Sofortbanking	For our members in Germany and Spain, using this payment method to deposit is an instant, secure and easy way to fund your 888.com Account, directly from

	your Bank Account.
Swedbank (Banklink)	BankLink is a secure, real-time bank transfer service offered exclusively to customers of Swedbank. Customers must hold an online account with Swedbank to use this service.
Ukash	A pre-paid voucher and card that enables instant, safe and private online payments without needing to share your financial or personal details online. Find out where to get Ukash at www.ukash.com/find.
FundSend	An international service for instant, secure online payments using credit and debit cards.
DineroMail	DineroMail is a Latin American payment service, offering users local payment methods using cash payments, local and private credit cards, bank transfers, as well as an e-wallet solution. Customers are not required to register for a DineroMail account unless they plan on using the eWallet service. Available to members in Mexico, Chile and Argentina.
Transferencia Bancaria Local-LobaNet	Transferencia Bancaria Local is a secure bank transfer payment service that enables online payments directly from your bank account. This method can be used in Argentina, Brazil, Chile, Mexico, Peru and Uruguay.
Fast Bank Transfer	Can be used easily and securely to fund your 888.com account directly from your online banking. The payment option is available in a wide range of countries across the globe.
Instant Banking powered by Citadel	Instant banking, powered by Citadel, is a new generation payment solution that can be used to make fast and easy instant bank transfers through your online banking. A payment assistant will guide you through each step of your deposit process. Members also have access to the Rapid Payment option if their bank is not listed. The Rapid Payment option, however, takes slightly longer to process.
Instadebit	INSTADEBIT e-wallet system can be used to make easy, instant and secure deposits directly from your bank account to your gaming account
Multibanco	Multibanco is a fully-integrated inter-bank network that links the ATMs of 27 banks in Portugal. It offers easy, secure and reliable payments that can be made at an ATM or through online banking.
	Withdrawal methods only
Wire Transfer	Withdraw your winnings directly to your personal bank account.
Bank Draft	Receive a cheque with your winnings in the post.
WebMoney	WebMoney is a multifunctional payment tool that provides secure and immediate transactions online. WebMoney can be used in the following countries: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Russia, Ukraine and Uzbekistan.

888.com utilizes the most advanced security and encryption technologies available, to ensure that your transaction and all of your financial information are completely secure.

For assistance with this or any of your other online gaming needs, please contact us.

4.2 Transparent and Cost-effective Pricing of Payment Services

4.2.1 Consumer-Merchant Relationship: Transparency

15)	Should merchants inform consumers about the fees they pay for the use of various payment instruments? Should payment service providers be obliged to inform consumers of the Merchant Service Charge (MSC) charged / the MIF income received from customer transactions? Is this information relevant for consumers and does it influence their payment choices?

In general this section of the Green Paper tends to confuse thinking around total costs. In paragraph 2 of this section of the Green Paper it talks about the total cost (of payments) to the economy and, in paragraph 3, about decreasing the total payment costs in the economy. However, within these paragraphs, the Green Paper seems to regard total cost to the economy as being synonymous with cost to the merchant, and that if the cost to the merchant were lower the situation would be much improved. The UK Cards Association believes that this is flawed thinking.

This section begins by asserting that "consumers are seldom aware of the total cost of using specific payments instruments i.e. the costs that are not only imposed on them directly, but also on the payees (merchants)". One might equally assert that, with regard to the direct cost to themselves, UK consumers are very familiar with the fact that they are not typically being charged for making transaction as a consequence of free-if-in-credit banking and fee free-credit cards and therefore have little, or no, knowledge or interest in the cost to the merchant.

With regard to Question 15 and to the cost to merchants, The UK Cards Association fails to see why the consumer should need, want or be made to be any more aware of the cost to the merchant of accepting a card payment (or any other form of payment) than they are the price the merchant is paying for its staff[25], its premises, its electricity, its petrol, etc. or, indeed, the cost to the merchant of accepting other payment mechanisms, including cash. It would be interesting to know the proportion of merchants' total costs that are accounted for by payment acceptance and why this would justify a special level of transparency.

We also question why acquirers should be required to reveal to both customers and non-customers alike the level of its fees which have been negotiated on a case-by-case basis and, in any other industry, would be regarded as commercially confidential?

[25] It is more believable to us that if merchants were to publicise how much (or little i.e. minimum wage) they are paying their staff, this could influence consumers who might act in sympathy with the low paid and boycott a merchant.

The UK Cards Association is not aware of any evidence to suggest that consumers would behave in the altruistic manner towards merchants suggested in this section were they more aware of the relative costs of different payment methods (any more than the way in which Australian merchants have not behaved altruistically towards Australian consumers following reductions in interchange, as discussed earlier in Section 2).

It is difficult to see why it is believed that consumers should feel any sense of altruism to the retailer to choose the payment method that the retailer claims is the cheapest for them to accept. This ignores other considerations that are important to the consumer such as convenience, security, payment guarantee or consumer protection. In reality, both consumers and retailers are making trade-offs between cost and benefit. For example, the fact that the retailer may prefer the consumer to use a debit card is irrelevant if the consumer is unable to make the purchase without drawing upon the credit line offered by their credit card.

The cost to the merchant is not the same as 'total cost'. If it is desired that the consumer takes anything into account it should be the total cost to the economy, of which they are part, not a purely sectorial interest of, in this case, the merchant community.

There is also a contradiction here in that the Green Paper suggests that the Commission is keen to steer consumers down a path that results in them using payment products that cost less but will normally also offer less protection. This would seem to be inconsistent with the Commission's concurrent work on alternative dispute resolution mechanisms (ADRs) and online dispute resolution (ODR)[26] which suggests that the single market is being impeded by shortcomings in consumer protection. More fundamentally it is not for the Commission to steer consumers in any particular direction but to ensure the operation of a single market with competitive forces at work.

Nor do we believe that this assumed altruism of consumers is consistent with what we know of human nature and the way that individuals often behave in manners inconsistent with behaviour that would benefit society as a whole e.g. the amount they drive. The UK Cards Association therefore looks forward to the findings of the research that the Commission intends to undertake to assess the likely impact of enhanced transparency on consumer behaviour.

By logical extension one might consider what other information merchants might show that would influence consumer behaviour such as their profit margins on individual items; their other component costs; and explanations as to why the same product can be offered at a different price in different branches of the same merchant.

[26] On 29 November 2011 the European Commission published a Communication on Alternative Dispute Resolution for consumer disputes in the Single Market alongside legislative proposals for a draft Directive on ADR and a draft Regulation on ODR. Copies of these proposals can be found on the European Commission website

4.2.2 Consumer-Merchant Relationship: Rebates, Surcharging and Other Steering

16)	Is there a need to further harmonise rebates, surcharges and other steering practices across the European Union for card, internet and m-payments? If so, in what direction should such harmonisation go? Should, for instance: - certain methods (rebates, surcharging, etc.) be encouraged, and if so how? - surcharging be generally authorised, provided that it is limited to the real cost of the payment instrument borne by the merchant? - merchants be asked to accept one, widely used, cost effective electronic payment instrument without surcharge? - specific rules apply to micro-payments and, if applicable, to alternative digital currencies?

Surcharging for card payments is already dealt with in the PSD, leaving it to member states to decide whether merchants should be allowed to surcharge or not. We understand that many member states have prohibited surcharging, although this is not the case in the UK.

Surcharging for card payments has been a subject of recent public scrutiny in the UK. In June 2011 consumer body Which? lodged a super-complaint with the Office of Fair Trading regarding the practice among some merchants to impose surcharges and/or administration fees for accepting debit card or credit card payments. The underlying concerns seemed to be that such surcharging is unfair, unavoidable, deceptive and lacks transparency (often being introduced at the last moment for online transactions).

Whilst The UK Cards Association is not against surcharging (or incentives for particular payment mechanisms) in principle we do not believe that it should be permissible for any surcharge to exceed the actual cost to the merchant for them to accept that particular type of card payment. The UK Cards Association believes that excessive surcharging is intended to boost merchant profits whilst obscuring the true cost of the good or service being bought on spurious grounds. Hence, even before the Which? super-complaint, The UK Cards Association had been calling for the UK Government to take action in this area.

The UK Government announced in December 2011 that it intends to prohibit 'excessive' surcharging (by which we think they mean limited to the actual cost of the transaction charged by the acquiring bank to the merchant, though there may be a case for arguing that this should be net of the cost of cash to the merchant) for accepting card payments by the end of 2012.

This move is the result of perceived abuse by certain merchants who impose surcharges out of proportion to the cost to them of accepting the card payment as an additional revenue source, often introduced towards the end of the transaction. Whilst The UK Cards Association welcomes this move it is evident from some merchants' reactions[27] that water-tight legislation and enforcement could be problematic.

Merchants are at liberty to steer their customers towards any given payment method e.g. to say "we prefer cash" or to refuse certain forms of payment. Indeed, many high street retailers in the UK, including supermarkets and petrol stations, no longer accept cheque payments which they regard as costly and time consuming at the point-of-sale. Furthermore, it is common in the UK for merchants, particularly small merchants, to impose a minimum transaction amount for credit and/or debit card transactions, effectively steering customers towards cash (even though this might contravene scheme rules).

The preference hierarchy is unlikely to be the same for all merchants – different merchants will have different perspectives. For example, as mentioned previously, the British Retail Consortium publishes an annual study which claims that cash is the cheapest method of payment for their members to accept. Whilst The UK Cards Association has concerns over the underlying study, its methodology and findings, there is no doubt that some UK retailers believe this to be true of their business. Equally, we know that other retailers find cash to be expensive and would wish to encourage their customers to use alternatives.

With regard to Question 16, The UK Cards Association would like to see further harmonisation of rebates and surcharges along the model being moved to in the UK. Nonetheless, The UK Cards Association also accepts that it ought to be down to local markets to decide what is best for them, provided the approach adopted is fully transparent to the consumer, whether they being purchasing in their own country or overseas. A more homogenous, European approach to the issue of surcharges may be desirable but a common approach needs to be enforced by national regulators with the same rigour across member states in order to be worthwhile.

With regard to the third bullet point in Question 16, The UK Cards Association does not see any particular merit in merchants being asked to accept one, widely used, cost effective electronic payment instrument without surcharge, which would inevitably skew the market. In the UK, merchants have often justified their position on surcharging by pointing to a specific niche card product, often a prepaid card held by very few consumers, that they accept for free. We can see obvious difficulties in identifying whether the chosen product qualifies on the basis of being "widely used" and/or "cost effective".

[27] http://www.guardian.co.uk/money/2011/dec/23/ryanair-credit-card-surcharges-crackdown; http://www.impactpub.com.au/micebtn/index.php?option=com_content&task=view&id=10769&Itemid=50

4.2.3 Merchant-Payment Service Provider Relationship

17)	Could changes in the card scheme and acquirer rules improve the transparency and facilitate cost-effective pricing of payment services? Would such measures be effective on their own or would they require additional flanking measures? Would such changes require additional checks and balances or new measures in the merchant-consumer relations, so that consumer rights are not affected? Should three-party schemes be considered? Should a distinction be drawn between consumer and commercial cards? Are there specific requirements and implications for micro-payments?

In asking how changes could facilitate cost-effective pricing Question 17 implicitly assumes that the current pricing of payment services is not cost-effective. We do not think that this assertion is proven.

The UK Cards Association supports the rules referred to in this section for the following reasons.

Surcharging / Merchant Steering

As previously set out, The UK Cards Association believes that the merchant's ability to selectively discourage the use of particular payment mechanisms and incentivise others is a legitimate right and an essential mechanism by which merchants have the ability to constrain acceptance costs, short of non-acceptance.

No requirements should be imposed on merchants by any entity that restrict or prevent their ability to do so. This is already enshrined in UK law in respect of credit cards via the Price Discrimination Order 1990 (albeit subject to a UK Competition Commission notice for revocation[28]) and the UK Government had indicated its intention to extend this to debit cards in future,

Honour All Cards

The UK Cards Association believes that the Honour All Cards rule is an essential component of a four-party card payment model, since the very essence of these schemes is that a large and diverse group of payment institutions, with no other existing relationships, are bound through participation in a way which allows their cardholders access to a vast network of merchants who accept the product.

[28] http://www.competition-commission.org.uk/inquiries/ref2011/credit_cards_review/pdf/120112_credit_cards_order_final_decision.pdf

The utility of the scheme for cardholders is that it enables them to use the card in geographical locations where the merchant has no knowledge of the card issuer, let alone a direct relationship. Conversely, the merchant benefits from being able to provide goods and services to a vast number of cardholders simply through a relationship with one merchant acquirer.

The promises that underpin the significant success of card payments are those that:

- allows consumers to have confidence that their card will be accepted; and
- to merchants that, for any payment they receive, they will receive a guarantee of payment irrespective of the solvency of the card holder or the credit rating of a particular card issuer.

The absence of the Honour All Cards rule would significantly diminish the utility of a scheme and cause obvious confusion at point-of-sale as (i) consumers try to use cards that they believe are, or wished to be, accepted only to be refused and (ii) merchants try to identify which of the more than 15,000 card issuers' cards they wish to accept. The UK Cards Association believes that so long as the Honour All Cards rule cannot be deployed in a way which restricts the ability of merchants to surcharge payment cards, its existence is entirely beneficial.

Blending

The UK Cards Association and its members are entirely committed to transparency. We believe in providing appropriate information to merchants from which they can easily see the costs of accepting different payment cards. We applaud the decisions of Visa and MasterCard to mandate the provision of this information to all merchants, irrespective of size. Where blending is offered, the merchant should be able to obtain information on the rates (not MSCs) applied to various individual categories of cards from their acquirer or via the scheme websites.

4.3 Standardisation

4.3.1 Card Payments

In this section it is stated that the lack of common standards in the T2A domain often prevents debit cards from being accepted abroad. This presumably applies to domestic debit card schemes in individual member states, and therefore is not an issue for UK card issuers.

Nevertheless, The UK Cards Association does not believe that this can be the only factor that inhibits acceptance. We would not expect merchants (and acquirers) to necessarily want to accept every card type issued in every member state (with the associated cost) if their incidence at point-of-sale is rare.

With regard to certification, it is rightly observed that there are different criteria and evaluation procedures across member states. This reflects the different fraud experience in member states. For example, the UK fraud experience dictates that we expect high levels of certification to protect the integrity of the card payments system. Other member states may not (currently) be as attractive to fraudsters and can therefore accept lower levels of security (although ultimately we would expect fraudsters to target the weakest link in the system, wherever it may be geographically speaking). Therefore, if there is to be standardisation this should be set to achieve the highest possible standards of security rather than the lowest common denominator. To do otherwise would risk the integrity of the card payment system.

The UK Cards Association is of the opinion that, for card payments, there is no requirement for additional levels of standardisation particularly at a regional level. The Commission must recognise that card payments are a global phenomenon and that any attempt to create a European set of standards threatens the interoperability that makes cards the payment instrument of choice for a significant number of global consumers (who could be prevented from using their cards outside Europe) and merchants. We would also not wish to see anything that jeopardises purchases from outside the EU by non-EU consumers from EU based merchants.

Furthermore, we do not believe that there is a need to develop overly prescriptive standards beyond those already in place and that any attempt by the Commission to dictate actions will be counterproductive, threatening innovation in a developing environment.

The developing implementation standards and specifications for mobile contactless payments are the result of cross-industry discussions that are taking place at a global level in order to ensure that secure, interoperable solutions are provided to consumers.

4.3.2 E- and M-payment

18)	Do you agree that the use of common standards for card payments would be beneficial? What are the main gaps, if any? Are there other specific aspects of card payments, other than the three mentioned above (A2I, T2A, certification), which would benefit from more standardisation?
19)	Are the current governance arrangements sufficient to coordinate and drive and ensure the adoption and implementation of common standards within a reasonable timeframe? Are all stakeholder groups properly represented? Are there specific ways by which conflict resolution could be improved and consensus finding accelerated?
20)	Should European standardisation bodies, such as the European Committee for Standardisation (CEN) or the European Telecommunications Standards Institute (ETSI), play a more active role in standardising card payments? In which area do you see the greatest potential for their involvement and what are the potential deliverables? Are there other new or existing bodies that could facilitate standardisation for card payments?
21)	On e- and m-payments, do you see specific areas in which more standardisation would be crucial to support fundamental principles, such as open innovation, portability of applications and interoperability? If so, which?
22)	Should European standardisation bodies, such as CEN or ETSI, play a more active role in standardising e- or m-payments? In which area do you see the greatest potential for their involvement and what are the potential deliverables?

In this section the Green Paper raises the question of portability i.e. how payment applications follow consumers when they change the mobile network operator. This question might easily be extended to where the consumer changes their handset or even the form of mobile device (from their phone to, for example, their watch).

This also raises the question as to how many devices a consumer might wish to hold with the same payment applications duplicated, for example, on their mobile and on their watch. There is also a need to consider the way in which more than one payment card can be issued on a personal current account or credit card account to a secondary cardholder.

With regard to Question 18, we do not believe that there is a requirement for additional standardisation activity for cards.

In adopting EMV the EU selected a globally interoperable specification for card payments where all of the interfaces within the processing chain are well known and understood. International vendors supplying EMV compliant products and services build around the core requirements of EMV and make available products that, with a small amount of effort, can be placed anywhere in the world offering full interoperability across any borders.

It is inevitable that there will be local market requirements that mean some additional work for the vendor, but it is The UK Cards Association's opinion that this will always be the case unless there is complete harmonisation of the legal and financial frame work under which card payments operate.

The UK Cards Association supports the current position of the European Payments Council's (EPC) Cards Working Group which has established a minimum set of functional requirements for SEPA card processing but has not attempted to develop or mandate detailed implementation specifications, leaving this open for market competition and innovation.

We believe that this general model should apply for all of the card processing domains with the exception of the security domain where it is right that a single set of security requirements can be translated into a single security specification. We therefore support the work of the CAS/OSEC groups in their efforts to deliver a single security certification and approvals process for the SEPS.

With regard to Question 19, The UK Cards Association and its members are conscious of the need for suitable governance arrangements to co-ordinate and drive adoption and implementation. However, there is a great deal of caution among market participants over the competition implications of collaboration that may later be deemed anti-competitive by regulators. Nevertheless, there may also be a case for the EPC to be more open to include non-banks and payment schemes.

With regard to Question 20, it is difficult to see how European standardisation bodies can assist in this process. The discussions that need to take place now are at an implementation level and will require cross industry discussion about how to convert already existing standards and specifications into a reality.

With regard to Question 21, provided the core security features of the payment methods are maintained in the e-commerce and m-commerce space, then there is no need for additional standardisation activity in this space.

With regard to Question 22, see 20 above.

4.4 Interoperability Between Service Providers

4.4.1 Interoperability in the M-payment Domain

In this section the Green Paper identifies one of the main barriers to broad-based take-up of m-payments as being a stalemate between MNOs, traditional PSPs (banks) and other players such as manufacturers or application developers.

In our view these are natural obstacles to be overcome as competing organisations seek to maintain their competitive advantages and unique selling points. However, some compromise and openness is required in order for the necessary collaboration to take place. All participants are naturally cautious around the implications of competition law.

The UK Cards Association would suggest that the following additional barriers also exist:

- lack of clarity concerning the commercial proposition to the retail community;
- competing products with different user experiences leading to confusion at the point-of-sale;
- modest rollout of acceptance devices capable of processing m-payments;
- availability of mobile handsets supporting m-payments;
- consumers' awareness of product availability.

There is evidence to suggest that these barriers are being addressed and a more collaborative environment exists whereby stakeholders are willing to work together to remove them. We do not therefore agree with the statement that a stalemate exists.

MNOs attempting to retain control of the business, at least as security manager, and e-payment players seeking to extend their reach to the mobile environment are cited as motivations. The EC could usefully explore the inhibitors to progress in more detail with a view to assisting in their removal.

4.4.2 Interoperability in the E-payment Domain

We do not believe that there are significant barriers to interoperability in the e-payments domain. Standardisation activities have produced a set of technical specification that allow products to be deployed without significant difficulty. In the UK, Barclays have been able to deploy their Pingit e-payments solution without threatening a wider move by the Payments Council to develop a similar service for other UK banking institutions.

4.4.3 The Various Dimensions of Interoperability and Competition

23)	Is there currently any segment in the payment chain (payer, payee, payee's PSP, processor, scheme, payer's PSP) where interoperability gaps are particularly prominent? How should they be addressed? Which level of interoperability would be needed to avoid fragmentation of the market? Can minimum requirements for the interoperability, in particular of e-payments, be identified?
24)	How could the current stalemate on interoperability for m-payments and the slow progress on e-payments be resolved? Are the current governance arrangements sufficient to co-ordinate, drive and ensure interoperability with a reasonable timeframe? Are all stakeholder groups properly represented? Are there specific ways by which conflict resolution could be improved and consensus finding accelerated?

Mobile payments are still at a relatively early stage in their development. In the UK, contactless card payments (subject to a £10 transaction limit, since increased to £15, and soon to £20) were first introduced in 2007 and have experienced slow growth to date. In parallel, we have seen small scale trials of mobile phone based contactless payments.

There is increasing recognition among all parties that, in order for mobile payments (contactless below £20; using some form of verification above £20) there needs to be closer cross-industry collaboration involving banks, mobile network operators, retailers, technology companies, hardware and software companies; and other interested stakeholders.

With regard to Question 24, we do not agree that there is a current stalemate on interoperability for m-payments. This is an emerging market where progress may be slower than hoped, but is dealing with hugely complex issues requiring cross-industry collaboration in order to happen. Characterising this as a stalemate is erroneous.

To this end The UK Cards Association is working towards establishing a cross-industry stakeholder Board tasked with accelerating the deployment of contactless and mobile contactless payments and communicating with consumers. This is currently at an embryonic stage but is indicative of a general acceptance that greater cross-industry collaboration is required. In our view, this self-regulatory approach is the optimal way of making faster progress.

4.5 Payments Security

25)	Do you think that physical transactions, including those with EMV-compliant cards and proximity m-payments, are sufficiently secure? If not, what are the security gaps and how could they be addressed?
26)	Are additional security requirements (e.g. two-factor authentication or the use of secure payment protocols) required for remote payments (with cards, e-payments or m-payments)? If so, what specific approaches/technologies are most effective?
27)	Should payment security be underpinned by a regulatory framework, potentially in synergy with other digital authentication initiatives? Which categories of market actors should be subject to such a framework?
28)	What are the most appropriate mechanisms to ensure the protection of personal data and compliance with the legal and technical requirements laid down by EU law?

It is stated in this section that EMV has “helped to drive down card fraud in the physical payment transactions, fraudulent activity is now increasingly moving to remote card transactions, in particular to payments through the internet”. This is not true of the experience in the UK, where the fraud experience was covered earlier in this document in section 2.2. Where there is a will to do so, card-not-present and online fraud can be tackled with some success.

It is also stated in FAQ 6 of the FAQs accompanying the consultation document that “an integrated market would increase the security of, and consumers’ trust in, remote payments, such as e-payments and m-payments”. There is no explanation given for this assertion and we are not sure why it is believed that an integrated market should yield this result.

However, it is worth repeating our view that, with the growth of m-commerce in particular, a key concern must be that as new players enter the payments market without an understanding of fraud and how it can be prevented, with an emphasis on speed to market, fraudsters will be able to take advantage. Managing this situation is of critical importance in maintaining consumer and merchant confidence in the integrity of e-commerce, m-commerce and supporting payments methods, suggesting a need for careful consideration by industry and regulators.

With regard to Question 25 we believe that the security features built into EMV compliant proximity payments are adequate to protect transaction integrity. The inclusion of a dynamic cryptographic exchange and the removal of unnecessary sensitive account information (e.g. cardholder name) from the transaction process make such payments a less attractive target for the types of attack seen on regular (contact) cards. Evidence to date suggests that the level of fraud on proximity payments is far lower than for other card payment products. There is also a danger that apparently cheaper payment products compromise on their security features to achieve an apparent price benefit.

With regard to Question 26, the issue of authenticating the customer in a remote payment remains an issue for all parties and there have been many attempts to enforce particular processes on the industry. However, from an acceptance point of view, additional complexity in the transaction process is often seen as a barrier to adoption and solutions are less effective if they are not universally adopted.

With regard to Question 27, The UK Cards Association does not believe that there is a need for an additional regulatory framework.

With regard to Question 28, The UK Cards Association is not sure what the question is driving at given the extensive data protection legislation that already exists, and is therefore unable to comment.

5. Strategy Implementation / Governance

5.1 Governance of SEPA

29)	How do you assess the current SEPA governance arrangements at EU level? Can you identify any weaknesses, and if so, do you have any suggestions for improving SEPA governance? What overall balance would you consider see appropriate between a regulatory and a self-regulatory approach? Do you agree that European regulators should play a more active role in driving the SEPA project forward?

It is the view of The UK Cards Association that too much time has been spent in recent times by regulators in repeated cycles of analysis of the card payments market as it was, not as it will be. We have often made the comment to the UK government and regulators that this has meant that the UK industry's IT, change management and operational management resources has been dealing with a queue of regulatory requirements at the expense of innovative development.

We have now entered the era of the greatest ever change in the cards industry since its birth; change that stands to make even the term "cards industry" a misnomer. Regulators must be extremely wary of taking any actions which make the situation worse; otherwise the European industry will be disadvantaged and unable to compete with more resource rich competitors operating on a global scale.

The best position that European regulators can take is one of ensuring that, where competing players (whether that be groups of banks, or banks and mobile operators, or any similar combination) need to talk and/or take collective initiatives, competition law does not stifle innovative action and regulatory demands do not deflect resources on to less important matters.

The future make-up of the 'cards' industry, of the types of players that will be successful within in it, and of their business models, remains uncertain. In our view, regulators cannot drive the market forward, as the Green Paper appears to be positing. However, they could easily place obstacles in the way of European organisations if they are heavy-handed and overly prescriptive.

5.2 *Governance in the Fields of Cards, m-payments and e-payments*

30)	How should current governance aspects of standardisation and interoperability be addressed? Is there a need to increase involvement of stakeholders other than banks and if so, how (e.g. public consultation, memorandum of understanding by stakeholders, giving the SEPA Council a role to issue guidance on certain technical standards, etc.)? Should it be left to market participants to drive market integration EU-wide and, in particular, decide whether and under which conditions payment schemes in non-euro currencies should align themselves with existing payment schemes in euro? If not, how could this be addressed?
31)	Should there be a role for public authorities, and if so what? For instance, could a memorandum of understanding between the European public authorities and the EPC identifying a time-schedule/work plan with specific deliverables ('milestones') and specific target dates be considered?

With regard to Question 30, the SEPA Cards Framework documents the commitment by EPC members to the EU's SEPA project. It has, as the Green Paper notes, the "status of a voluntary code of conduct" made by the banking community. It is therefore strange that the Green Paper seems to expect it to "have the unanimous support of all stakeholders" as it is not relevant to most of them. One action the Commission could have taken, and still could take, is to ask for parallel commitments to 'SEPA for Cards' from the other relevant industries.

The Green Paper notes that the SCF does not provide a "formal mechanism" to enforce SEPA compliance for card schemes. The EPC is not a regulator with enforcement powers; it is not possible for it create such a formal mechanism. However, the SCF does commit the banks to ensure that their general purpose card issuing and acquiring activities are SEPA-compliant, which amounts to a commitment to do their issuing and acquiring only via SEPA-compliant schemes. The threat of refusing to do business with non-SEPA-compliant schemes is the strongest pressure that issuers and acquirers can bring to bear.

With regard to Question 31, a memorandum of understanding adds nothing if it commits only one of the industries whose participation is needed (i.e. the banking industry). The work on standardisation has been slow because the participation of a number of industries is necessary. Indeed the regulators have demanded that the EPC should reach out, via the Cards Stakeholder Group, to the other stakeholders. But if only the banking industry is committed by a memorandum of understanding, this does not move us on from the current situation whereby only the banking industry has committed itself via a "voluntary code of conduct" (i.e. the SCF).

Other participants in the standardisation debate who do not have the same pressure to reach agreement (either within their industry or between industries) can move at their own speed in their own direction. There is no doubt that the standardisation work over the last two years has been slowed down by the behaviour of sectional interests who are not bound by voluntary codes or memoranda of understanding.

6. General Remarks

32)	This paper is addresses specific aspects related to the functioning of the payments market for card, e- and m-payments. Do you think any important issues have been omitted or under-represented?

As mentioned in the introduction it is disappointing that the Green Paper did not cover the following aspects that The UK Cards Association considers relevant:

The Consumer Proposition

- the consumer proposition, where the global nature of payments mean that European consumers need, and continue to value, payment products that can be used beyond Europe, where European consumers risk being disadvantaged by any geographic restriction on usage if the ambition for new payment products is restricted only to inter-member trade within the community;

- that e-commerce is a global phenomenon and that focusing solely on pan-European ambitions is therefore limiting for consumers (for example, there is considerable internet commerce between UK consumers and US-based companies);

- the potential market for P2P payments, where the mobile device also operates as a payment acceptance device;

- the fact that consumers' use of credit cards for payments is inextricably linked from their need for and use of credit.

Industry Structure and Commercial Frameworks

- the likely fragmentation and proliferation of payment products and market participants and the need for collaboration, where the key question will be whether consumer and retailer demand will be sufficient to drive innovation in payments;

- the possibility that mobile payments might evolve out of something other than card payments, where a focus among regulators on cards alone is likely to skew the market one way or the other;

- consumers' willingness to pay for technologically advanced payment solutions, and who they are willing to pay;

- the implications of the likely co-residence of different payment products and brands on a single mobile device;

- at least in the UK, the recent emergence of a stand-alone acquirers no longer part of institutions with a card-issuing arm (almost two thirds of UK card transactions are processed through stand-alone acquirers that are no longer or have never been part of a card issuing institution);

- any comparison of the benefits of different payment mechanism beyond cost;

- how existing cross-subsidisations that operate in payments and have distorting effects might need to be addressed;

- the establishment of prepaid cards as a niche payment product;

- the emergence of e-money issuers.

Regulation and Legislation

- the possible implications of existing legislation e.g. the PSD in terms of possible inadvertent consequences, including such things as Direct Currency Conversion;

- the fit of mobile technology with current legal definitions relating to both payments and consumer credit at EC level and in member states and the responsibilities placed on providers of different elements of the product i.e. the phone; the application; the underlying account;

- the relevance and importance (and failure to emerge despite the Consumer Credit Directive) of a single market in credit, particularly credit card credit, to underpin a single market in credit card payments;

- the possible implications of disability discrimination legislation such as that which already exists in the UK;

- the constraints on collaboration of existing competition legislation;

- the risk that, as mobile technology is rolled out, card present transactions (in bricks and mortars establishments) are processed as online transactions, circumventing chip & PIN.

Fraud, Security and Transaction Processing Risks

- the risk that, as mobile technology is rolled out, card present transactions (in bricks and mortars establishments) are processed as online transactions, circumventing chip & PIN;

- the need for caution around both fraud risk and credit risk associated with new payment products and services;

- the consequences where m-commerce results in a shift in transactions from being online to offline, and the subsequent ability to authorise transactions.

7. Next Steps

The UK Cards Association believes that the Green Paper is an insufficient basis on which to base a Commission work programme or to develop policy positions. It will be interesting to see the full range of responses that the Commission receive.

However, in terms of specific actions, we might recommend that:

- the Commission should urgently engage with the payments industry to review existing legislation such as the Payment Services Directive and the Consumer Credit Directive, with the objectives of (i) accommodating a mobile payments world and (ii) identifying and removing any aspects that are inadvertently inhibiting the development of e-commerce and m-commerce;

- the Commission should assess the risk to the integrity of the payment system of (new and emerging) PSPs who have a lesser regard for credit and fraud risk and what measures might be necessary to ensure that PSPs give due regard;

- the Commission should seek parallel commitments to 'SEPA for cards' from other relevant industries who may be instrumental in delivering m-payment products and services;

- the Commission should set out guidance on the appropriate scope for collaboration of different sectors to deliver against a vision for e-commerce and m-commerce;

- the Commission should undertake research to fully understand why consumers and retailers in other member states have not yet embraced e-commerce as much as the UK, Australia and the US, including what products and services they might be interested in purchasing cross-border online;

- the Commission should undertake its proposed research to assess the likely impact of enhanced transparency (at the point-of-sale of total costs) on consumer behaviour (though we are sceptical that this will reveal any useful information);

- the Commission should undertake research to fully understand consumers' propensity to make payments beyond Europe;

- the Commission could progresses its work in undertaking a definitive study into the cost of payments, particularly cash, that all stakeholders can support;

- the Commission could evaluate how merchants in different sectors with cross-border reach adapt their business models and websites to local conditions;

- the Commission should examine inhibitors to the broad-based take-up of m-payments.

8. Contact Details

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