

Interchange fees for card-based payment transactions

2013/0265(COD) - 24/07/2013 - Legislative proposal

PURPOSE: to lay down uniform technical and business requirements on interchange fees for card-based payment transactions.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the regulatory and legislative framework for retail payments in the EU has been developed over the past 12 years, with the advent of the Euro acting as an accelerating factor.

One of the key practices hindering the achievement of an integrated market reasons is the widespread use of so-called **Multilateral Interchange Fees (MIFs)**. At present, no legislation regulating interchange fees is in place in the EU. MIFs are collectively agreed inter-bank fees usually between the acquiring payment service providers and the issuing payment service providers belonging to a certain scheme. Such interchange fees paid by acquiring payment service providers form part of the fees they charge to merchants which merchants in turn pass on to consumers. Thus, **high Interchange Fees paid by merchants result in higher final prices for goods and services, which are paid by all consumers.**

There currently is a **wide variety of interchange fees applied** within national and international payment card schemes, which gives rise to market fragmentation and prevents retailers and consumers from enjoying the benefits of an internal market for goods and services.

Market entry for pan-European players remains difficult, as domestic interchange fees in EU Member States vary widely and new entrants would have to offer interchange fees at least comparable to those prevailing in each market they want to enter. The entry barriers interchange fees thus created for online and mobile payment solutions also result in less innovation.

Over the last 20 years, the European Commission and national competition authorities have conducted a number of **antitrust proceedings addressing anti-competitive practices** in the card payment market. The General **Court judgment of May 2012** confirmed the Commission's finding in its MasterCard Decision of December 2007 that MIFs **restrict competition** as they inflate the cost of card acceptance by merchants without leading to benefits for consumers.

In its [non-legislative resolution of 20 November 2012](#) on the Green Paper "Towards an integrated European market for card, internet and mobile payments", the Parliament took a firm position in favour of providing clarity on interchange fees to market participants and expressed itself in favour of a **gradual approach leading to a ban on interchange fees through regulation.**

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

IMPACT ASSESSMENT: the impact assessment considers six scenarios for interchange fees. The assessment concludes that the most beneficial option appears to be a combination of:

- **capping the level of interchange fees for cross-border transactions** with consumer debit and credit cards (in the first stage) and, in a second stage, capping the level of interchange fees also for domestic transactions with consumer credit cards and consumer debit cards;
- **a series of measures to enhance effective market functioning** including the limitation of the rule allowing merchants to determine the choice of card brand at the point of sale for all cards and card-based transactions based on four party scheme models.

CONTENT: the present regulation, combined with the [proposed revised Payment Services Directive](#), proposes to **create common rules for interchange fees in the European Union** by introducing maximum fee levels for transactions with payment cards that are widely used by consumers and thereby difficult to refuse or surcharge by retailers. The regulation will in addition propose **transparency measures** to allow retailers and consumers to make better informed choices of payment instruments.

Capping interchange fees: the Commission proposes to set caps for interchange fees to payment service providers of **0.2% and 0.3% for the value of the transaction for all consumer debit and credit transactions**. These figures have been accepted by Visa, MasterCard and the French domestic card scheme *Groupement Cartes Bancaires*.

- During a transition period of two years, maximum levels of interchange fees are imposed for **cross-border** transactions (where the card holder uses their card in another Member State) or cross-border acquired transactions (where the merchant uses an acquiring PSP in another Member State) only.
- After a transitional period, the regulation of interchange fees for consumer cards should therefore be extended to cover also **domestic** interchange fees.

Business rules: the proposed Regulation contains measures as regards business rules that will be applicable to *all* categories of card transactions and *card-based* payment transactions based on those. As of the entry into force of the regulation, for instance:

- the application of the '**Honour All Cards Rule**' **will be limited**. No discrimination will be nonetheless allowed on the basis of the issuing bank or the provenance of the card holder and between the cards carrying the same interchange fee level;
- the application of any rule preventing or limiting merchants from steering customers to more efficient payments instruments ('**no steering rules**') will be prohibited;
- acquiring Payment Service Providers will provide at least **monthly statements** of fees to merchants, in which the fees paid by the merchant over the relevant month concerning each category of cards and each individual brand for when the acquirer provides acquiring services is specified;
- the application of any rule withholding merchants from disclosing to their customers fees they pay to payment services acquirers will be prohibited.

BUDGETARY IMPLICATIONS: the proposal does not have any impact on the EU budget.