

**Preparation of a Report on the Application of Regulation (EC) No 2560/2001:
Comments of the EPSM on the Consultative Document**

Status: 05-01-2005

In reference to the comments at the PSMG meeting on 28th November 2005, we would like to comment briefly. Due to our present member structure, we focus on the German market of card-based transactions for merchants:

To 6.1. Impact on Charges for payments cross border:

In the German debit card market for merchants, regulation 2560 was cited as the reason to split the contracts and processes from the former joint system (with typical merchant charges of 0,3% for national transactions and 0,95% for international transactions) into separate contracts and procedures of the national system electronic cash and international system maestro.

The national Debitsystems remained unchanged including the interchange fee of 0,30%, under the full control of ZKA.

The international Debitsystem, Maestro, is operated by Acquirers under the Maestro-Licence of MasterCard. Although there is high competition in the German Acquiring-market, the decrease of the service fees are not remarkable. There are fees offered between 0,95% and 0,92% in the most cases. This has to do with a very small number of Maestro-transactions in Germany in general. The most impact on this Maestro-fees result from the intra-European interchange and the intra-European assessment fees which have to be paid by the Acquirers to the Issuer and MasterCard.

As a consequence, for a merchant who does not want to accept credit cards, the attractiveness to accept international debit cards has decreased due to the now separate contract and processing requirements. This consequence was probably not intended by regulation 2560.

For the future - especially in the context of the expected competition of various debit card schemes - we suggest to clarify under which conditions payment systems are „comparable“ in the sense of the regulation and under which conditions not.

To 6.2. Impact on Consumer Awareness

From practical experience in the German market, we estimate that the consumer awareness is relatively high.

To 6.3. Impact of National Reporting Obligations

The limits have not yet been raised in the German national law. Therefore, a transaction between 12,500 Euro and 50,000 Euro requires some burdensome additional reporting to the Deutsche Bundesbank by the merchant.

We suggest strongly, that the Commission and the ECB try together to raise the reporting limit to 50.000,- Euro as fast as possible for all transactions that fall in the scope of this regulation.

To 6.4. Payments Infrastructure

We want to emphasize that currently each major national market has developed or is developing its own technical EMV implementation, especially for the national debit card schemes. Therefore, a merchant faces very different equipment operating costs depending on the national debit card schemes involved.

According to our information, a „Common Approval Scheme (CAP)“ for terminals is in the early stage of discussion. According to our information, we expect an operational result at earliest in app. 3 – 4 years. Therefore a market rollout would start at earliest only in app. 4-5 years.

To 7.1 Impact on Charge for Payments made within a member state

In the German ATM market, regulation 2560 was cited as the main reason to change de facto the pricing capability of a national ATM transaction from the ATM bank to the card issuing bank. De jure, the pricing capability did not change, as the legal provider of the ATM service to the card holder was always the card issuing bank.

In cases, where a national ATM transactions is not an internal „on-us“ transactions or a transaction in one of the four national „free-ATM-usage“ groups, the shift in pricing capability has lead frequently to price increases for these specific ATM transactions.

To 7.2 Impact on the functioning of the Internal Market and to 8.2 Competition

In the credit and international debit card acquiring, it should be noted, that many acquirers still have only national licences as the upgrade to a SEPA licence is relatively expensive and cannot be justified by only „initially a few“ internationally acquired transactions.

In the national debit card schemes, it is practically very difficult and expensive to receive legal and operational access at costs which can be justified by only „initially a few“ internationally handled transactions.

Therefore, the market structures are in our experience still mainly national ones.

To 8.1. Product Scope

To our informal knowledge, the EPC plans a SEPA Direct debit (SDD) scheme with a mandate requirement and very formal, costly registration procedures. Compared to the existing, very efficient German direct debit scheme, we consider this SDD scheme as a new product. Therefore, both schemes are in our view not „comparable“ in the sense of the regulation and the SDD should not be subject to the regulation.

To 8.3 Enforcement: Sanctions, Authorities and Redress

We suggest that the Commission publishes for the consumer in the Internet in clear, understandable language the key aspects of the regulation, frequently asked questions (FAQs) and the addresses of the institutions to which any complaint should be directed.

To 8.4 Review Clause

We suggest that the regulation should be reviewed only some years after the successful market implementation of the first SEPA payment services, probably several years after the year 2010.

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