



EUROPEAN SAVINGS BANKS GROUP
GROUPEMENT EUROPEEN DES CAISSES D'EPARGNE
EUROPÄISCHE SPARKASSENVEREINIGUNG

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ESBG Response to EC Consultation on Application of Regulation 2560/2001

1- Background

Article 8 (Review clause) of EC Regulation 2560/2001 disposes that:

“Not later than 1. July 2004, the Commission shall submit to the European Parliament and to the Council a report on the application of this Regulation, in particular on:

- changes in cross-border payment systems infrastructures,
- the advisability of improving consumer services by strengthening the conditions of competition in the provision of cross-border payment services,
- the impact of the application of the Regulation on charges levied for payments made within a Member State,
- the advisability of increasing the amount provided for in Article 6(1) to EUR 50.000 as from 1. January 2006, taking into account any consequence of undertakings.

The report shall be accompanied, where appropriate, by proposals for amendments”.

Whilst banks and national associations will respond to the questionnaire and comment on its application from a local perspective, ESBG contributes these remarks with a policy perspective.

2- Policy considerations

We should like to make the following observations:

- The scope of review of the Regulation is clearly defined by Article 8. All will acknowledge that the European payments environment is undergoing significant change, notably with the launch of the SEPA programme and the commitment of the European banking industry to introduce 3 pan-European payments instruments in 2008. However we should like to recommend that the review remains within the perimeter of the scope as defined, and that in particular banks' compliance be assessed as compared with the obligations of the Regulation, and not with the objectives of the SEPA programme (which did not exist when the Regulation was promulgated).
- When undertaking a review of Regulation 2560/2001, it is useful to remember that, according to the Recitals, this Regulation was promulgated on 19. December 2001 in order to assist in the introduction of the physical Euro on 1. January 2002.

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The introduction of the common currency is considered by all stakeholders as a success, in which the European banking industry played a key role.

- It is useful to remember as well that a specific objective of Regulation 2560/2001 was to align the charges for cross border payments in euro (up to EUR 12.500) with those for payments made in euro within a Member State. This objective has been achieved, and neither the RBR study report as such, nor the Commission's Consultative paper, bring any evidence to the contrary. This application performance should furthermore be assessed in the light of the 3 Commission "Practical" or "Interpretative" Notes required between 2002 and 2004 to clarify the original text and permit a more homogeneous implementation.
- It is obvious that this Regulation in effect has many of the dimensions of a pricing regulation. As such it cohabits uncomfortably with the free market principles of the European Union and the Treaty. It should also be recalled that in economic theory pricing regulations are a threat to economic welfare. Indeed regulatory intervention into product management areas generally triggers collateral effects – such as changes in service offerings and pricing structures and levels. In this case it fostered in addition specific collateral damage, such as split payment habits and difficulties in processing payments for "opt in" countries.
- As pointed out by ESBG when the Regulation was introduced, and confirmed by the RBR study, *"for cross border credit transfers the biggest influences on end-user prices are national factors relating to their provision"* – rather than changes in cross-border payment infrastructures. This finding is unsurprising as such changes can only be commensurate to the target market. In spite of the introduction of the euro (which eliminated currency uncertainty and conversion costs) and of the Regulation (which eliminated the pricing difference between national and cross border payments), the volume of cross-border payments today remains marginal compared to the volume of payments within Member States.
- The Consultative Document makes reference to "the flow of complaints to the European Commission", though acknowledging that "complaints appear to have diminished considerably over the last year". When asked at the 28. November 2005 PSMG meeting whether statistics about these complaints (their nature, their source, their evolution over time) could be shared with the market – which could be useful in particular for banks as providers of payment services to enhance their service levels if and where required - the Commission replied that it did not maintain any such complaint statistics, and furthermore that it was not clear whether most letters received could actually be categorized as complaints.
- It is regrettable that despite repeated requests from the banking industry over the last four years some Member States have not removed national reporting obligations for balance of payment statistics up to EUR 50.000, thus leading to both an inconsistency between Articles 6 and 3 of the Regulation as well as an uneven playing field. ESBG however acknowledges efforts by the Commission towards Member States in this field.



3- Conclusion

Regulation 2560/2001 had been promulgated at a unique point in time in the history of the European Union. Its original objectives have been achieved, yet the Regulation continues to be imperfect (e.g. regulatory reporting), and continues to produce negative collateral effects. As the European banking industry, in constant dialogue with regulators, progresses in delivering its building blocks for the Single Euro Payments Area, as there is no difference anymore between prices for cross border and national payments, and as the standards that enable electronic cross border payments have become market practice, time has come to repeal this Regulation.