

# Comments

## **Review of the Interchange Fee Regulation Position of the German Banking Industry Committee (GBIC)**

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## 1. Introduction

On June 29, 2020, the European Commission (EC) published a report by Ernst & Young Global Ltd (EY) on the effects of the Interchange Fees Regulation (IFR) on card-based payment transactions. The report will inform the European Parliament and the Council about the EU Commission's conclusion. Although the report is not accompanied by a revision legislative proposal, further monitoring and reinforced data gathering have been announced.

The German Banking Industry Committee (GBIC) welcomes this new report as it once again underlines the EU Commission's goal to promote cashless payments within the European single market. GBIC fully supports the political aim to promote secure, innovative, and efficient payment solutions, especially when they are "made in Europe", because payment systems are a critical infrastructure. They are an essential brick of strengthening Europe's sovereignty and autonomy.

Besides driving innovation by payment systems and card issuer activities, the IFR has also contributed to the Commission's goal to promote cashless payments. However, in the GBIC's opinion, the envisaged steering effect to be achieved by the IFR – particularly with regard to capped fees – also has had negative impacts. As the Commission's report pointed out, the IFR unilaterally disadvantages European card issuers and European payment systems, whilst merchants, acquirers, and international payment systems have verifiably benefited.

The interchange fee is still an integral part of the card payments value chain. For issuers and issuer-based payment schemes, interchange fees are essential: they are used in the fair distribution of risks involved in making transactions, they provide for investment into innovation, and they help to develop and maintain necessary infrastructure, alongside usual business costs. Merchants benefit disproportionately from this highly-available infrastructure. Therefore, IFR must be a part of the legal framework on which existing payment schemes or new pan-European solutions could be built upon and flourish.

If a change in current regulation will be considered for the future, it is important to improve the environment for issuers and for European payment solutions. Therefore, GBIC would like to draw attention to the following circumstances and recommendations.

- IFR has had the intended consequence of reducing interchange fees, with the resulting pass-through of these reductions to merchants.
- Priority should be to ensure that the full impacts of IFR are understood and objectively reviewed before any possible further changes might be intended. The focus in the coming years should rather be on efforts to optimise the existing legal framework, so that the above-mentioned goal can be fully achieved and European payment solutions strengthened.

- As the Commission's report suggests, further reviews on special topics should be made. They should focus primarily on the market position and role of international schemes, acquirers and new intermediaries, especially the so-called "big techs".
- GBIC strongly supports the development of pan-European payment solutions, and the German Banking Community (as a part of the European banking industry) is currently seeking to develop such solutions, in line with EU regulators' requests. Any revision of IFR to reduce existing interchange fee caps on consumer cards would hinder investment decisions to be taken for these developments: interchange is an important part of the pan-European payment solutions business model, and clarity on IFR fee caps in the years to come is therefore key.
- Furthermore the European payments market is in the process of fully implementing PSD2, instant payments are being deployed EU-wide and the Commission is already considering a wider legislative payment and finance framework beyond PSD2. It is highly likely that these initiatives will radically change and open up the payments market as we know it today, to foster innovation for merchants and consumers alike: they must therefore be taken into account as well.

## **2. Our position**

Against this background GBIC presents the following recommendations and positions:

### **a. More competition instead of regulation for fees**

- In contrast to international systems, the girocard system does not provide for any 'scheme fees' for merchants.
- Innovations have to be fundable. Further reducing permissible interchange would challenge the sustainability of domestic and regional payment schemes.
- Furthermore, since the fee policy of third parties (such as international card schemes) causes additional distorting effects for issuers, it is important that the European regulator pays more attention to consulting issuers and issuer-based payment systems. It should be taken into account that – for example - the interchange fee is not a part of the ICS revenues.
- It is paramount that adequate economic incentives continue to exist for European payment systems operators and card issuers – also against the background of political demands to establish a European payment system.

### **b. Appropriateness of the levels of interchange fees**

- Carrying out infrastructure investments requires proceeds (via fees) to compensate for the capital expenditure. Only market prices can offer the necessary incentive for investments in new products and innovations.
- The increasing level of digitalisation (NFC, wallets) has produced a decline in average card revenues. The number of cost-intensive transactions will continue to rise, since settlement is so simple (in part, without strong customer

authentication in line with the exceptions granted by EBA's RTS on strong customer authentication). However, for card issuers to generate breakeven revenues, a minimum interchange fee must be permissible, thus also enabling a cost-covering settlement of small transactions (<€20).

**c. Promoting innovation and improving transparency for consumers**

- Credit institutions offer mono-brand as well as multi-brand ('co-badged') cards. The payment application allows consumers to choose a potentially preferred payment scheme. In practice, this bears little relevance, since merchants also decide vis-à-vis their service providers (acquirer, network operator) which payment schemes to use at the point of sale. Thus, the user's choice of payment application ought to be replaced by product information provided by card issuers on possible application.
- As a result of third parties (e.g. providers of electronic wallets on smartphones) offering their services, the actual payment scheme is not visible for customers anymore – or only to a limited extent – during the payment transaction, making it harder for consumers to get a transparent overview of the accepted payment schemes. Therefore, visual identification of the actual payment scheme should be mandatory, and should not be concealed by any third-party product description.

**d. Evolution of other fees**

- The EY report notes that both issuer and acquirer scheme fees have increased substantially since the entry into force of IFR.
- Thus we agree with the recommendation to monitor the level, structure and transparency of scheme fees.

**e. Commercial card exemption**

- IFR excludes commercial cards from the scope of the interchange fee caps. This is because commercial cards have no consumer impact and are therefore outside the 'rationale' of the Regulation. That reasoning still holds true.
- We believe this exclusion is fully justified due to the fundamentally different nature of commercial cards compared to consumer cards. Commercial cards constitute a completely different market compared to consumer cards.
- Importantly, commercial cards allow small businesses to access a source of day-to-day liquidity which is vital for the management of their daily business, especially important during the ongoing coronavirus pandemic.
- We agree with recommendations to keep commercial cards exempted from IFR, whilst continuing to monitor the correct application of all IFR rules relating to commercial cards.

**f. Separation of scheme and processing**

- We support recommendations to consider the need for harmonising formats, standards, technical protocols and rules set by card schemes in cooperation with standardisation organisations such as ISO, EMVCo, ECSG, ECPC or Nexso, in order to improve inter-operability.

- Note: All technical standards within the girocard system are independent from the International schemes, except from the EMVCo standard, the NFC standard and the new SRC pay-by-push standard, as an important common basis for most card-based payment platforms worldwide.

**g. Unblending provisions**

- The use of unblended prices could be beneficial for merchants and increases transparency, but should be left to individual contractual arrangements between acquirers and merchants.
- We support the recommendation to strengthen the provision of transparent, simple and unblended price information for merchants.
- However, it should also be considered that smaller merchants appreciate simple pricing. As such, unblending should not become mandatory but rather be proactively offered by the acquirer as an alternative to blended pricing.

**h. Co-badging provisions**

- We support the recommendation for full harmonisation of technical features concerning inter-operability of cards or other payment instruments and PoS terminals, through the above-mentioned international bodies and especially through market-driven European standardisation initiatives under constant monitoring by EU supervisors, and not through any changes to the existing legislative text.