Single Euro Payments Area (SEPA): Self-regulation under competition scrutiny

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In the current situation retail banking remains an important sub-sector of the banking industry: the crisis has shown that solid and sound retail business allows banks to weather the present difficult circumstances much better. Payments are a particularly important business segment for banks. They ensure a recurrent revenue flow, which in the current market circumstances is vital. Payments are also vital for consumers and corporate clients, and investment in their efficiency and security can be used as a good customer-winning tool. Efficient and secure payments can facilitate an increase in trade and consumer spending, as well as help to bring down systemic risk in the financial markets. Non-cash payments are the main growth drivers for retail banking: according to a Capgemini report, the total number of non-cash payments in the EU grew by 6% per year in the period 2001-2006, with a rate of 11% for cards alone. It is estimated that card usage will continue growing rapidly in the future, with the increasing number of merchants accepting payment cards together with the increasing availability of different card products. By 2013, in Italy, Sweden and Denmark for example, payments made by cards will constitute just over 60% of all non-cash transactions. In France, Spain, Belgium, the Netherlands, Portugal, UK and Poland this will amount to 40-50% and in Germany and Austria to approximately 20%. (1)

SEPA — a self-regulatory initiative of the European banking industry

The Single Euro Payments Area (SEPA), set up by the European banking industry and supported by the European institutions, is probably the most ambitious project aimed at creating a truly European payments market since the introduction of the euro. Its objective is the creation of an area of efficient non-cash payments in euros covering 31 countries. (2) Once implemented, SEPA will result in an integrated euro payments area, ensuring that cross-border payments become as easy and efficient as domestic payments. For the time being SEPA covers credit transfers, payment cards and direct debit, and is expected to enhance competition by removing national barriers, thus increasing competition. Efficiency gains are also to be expected from the integration of the payment infrastructures.

SEPA is set up and implemented by the European Payments Council (EPC), an association of banks and banking associations representing the European banking industry. (3) The SEPA schemes developed by the EPC for credit, direct debit and payment card transactions in euros lay down sets of interbank rules and standards that have to be observed when executing “SEPA compliant” payment transactions. The schemes provide a common understanding between banks and payment services providers on how to move funds from one account to another within the SEPA area. The EPC is responsible for the development and maintenance of the SEPA payment schemes as defined in the Rulebooks published by the EPC itself.

Although SEPA is a self-regulatory project of the European banking industry, its legal framework is to a large extent predetermined by two important pieces of Community legislation: the Payment Services Directive, or “PSD” (Directive 2007/64/EC) aims to establish a modern and comprehensive set of rules applicable to all payment services in the European Union and to improve competition by opening up payment markets to new entrants, so-called payment services providers. Regulation (EC) No 2560/2001 on cross-border payments in euro (4) eliminates the difference in price between cross-border and national payments, thereby creating a “domestic payment area” for euro payments in the EU.

SEPA is strongly supported by the ECB and the Commission. SEPA will make a significant contribution to the Lisbon agenda: it will improve the efficiency of EU payment markets and stimulate innovation, thereby increasing the competitiveness of the European economy. In the public sector, SEPA could be used as a platform to drive e-government, thus contributing to the efficient delivery of public services.

However, in order to reach its goals and effectively deliver the envisaged benefits to businesses and consumers, SEPA needs to be implemented in accordance with competition rules and the existing Community framework for payment services. Since

(2) Ibid., p. 23.
(3) The 27 Member States of the European Union plus Switzerland, Norway, Iceland and Liechtenstein.
(4) At the end of 2008, the EPC had 74 members, either individual banks or banking associations.
SEPA is based on decisions of and agreements between undertakings that are (potential) competitors, it merits close competition scrutiny. Also, decisions taken by the association of banks have an important impact on users. A payment concerns not only a (contractual) relationship between banks but also a (contractual) relationship between two users, the payer and the payee, and their respective banks. The rules decided by the association of undertakings directly affect these users, which is another reason for the competition authorities to be interested.

In an informal but detailed analysis, experts from DG COMP and national competition authorities (NCAs) jointly identified competition concerns and raised a number of questions with regard to the implementation of SEPA. In view of the exceptional character of the project and its important potential consequences for European companies and consumers it was decided to address these concerns in an informal dialogue with the EPC which started in October 2007. Given their close interest and involvement in the SEPA project, the European Central Bank and DG Internal Market were involved closely in the dialogue.

The dialogue between the EPC and the European Commission

SEPA Cards Framework

Whereas for credit and direct debit transfers the EPC has set up two brand new pan-European schemes, in the field of cards its choice has been to establish rules allowing different schemes to be competitors but technically compatible and interoperable. For example, any card terminal should be able to read all SEPA compliant cards. The first milestone in the dialogue was reached in December 2007 concerning the interpretation of the SEPA Cards Framework (SCF). The dialogue in particular addressed the interpretation of the concept of “SCF compliance”, which was a priority for banks as they had to start making their card payments “SCF compliant” by 1 January 2008.

As a result of the dialogue, the SCF was clarified by the EPC, most importantly by explaining that SCF compliant card schemes do not need to cover all 31 states of the SEPA territory. The only requirement for a scheme to be compliant with the SCF is that it must operate in such a way that there are no barriers to effective competition between issuers, acquirers and processors; for instance, there should be a pan-European licence, no discrimination in terms of licensing and pricing between domestic and cross-border transactions, and technical interoperability. Thus a scheme may only have acquiring banks in one or a number of Member States but can still be SCF compliant. Such a decision — i.e. whether to be active in only one or a number of Member States — should be based on an individual business case analysis by the respective banks: if a merchant located within SEPA wants to accept a card from the scheme, and acquirers are willing to offer the merchant such a service, then they must be allowed to do so. An obligation for a scheme to cover the whole of the SEPA territory in order to be SCF compliant might have caused banks and national banking associations to abandon cheap and efficient national systems (e.g. Bancontact/Mister Cash in Belgium) for one of the currently only two (more expensive) existing international schemes, i.e. Maestro or V-Pay (for debit cards) and MasterCard or Visa (for credit cards). On the basis of this clarification by the EPC, the geographic coverage will be decided by market forces alone, meaning that new schemes stand a real chance of entering the market. This in turn will encourage the creation of a competitive SEPA-wide payment cards market. As a result, there are to the Commission’s knowledge currently three projects aimed at creating new pan-European card schemes.

Intensive discussions also took place during meetings running from May until June 2008, with a number of subsequent meetings following up. The dialogue is still ongoing in 2009, but can already be hailed as a success since the EPC was able to provide satisfactory clarifications on a number of the competition issues identified. For instance, the EPC clarified that national banking communities were not in a position to foreclose their market through national specifications (the so-called “Additional Options Services”). Rules and conditions governing access to schemes by payment institutions and equal treatment for payment institutions and banks under the SCF were also clarified.

Conclusion

The dialogue with the EPC on SEPA brought substantial clarifications to market players and other stakeholders in 2008, and is still on track in 2009. The momentum created in the earlier stages of the dialogue should help to tackle the remaining obstacles to the achievement of a truly competitive European payment cards market. Enhancing and strengthening the competition dimension of SEPA will in turn help to achieve better services at a better price for retailers and consumers.