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COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 December 2010
to:	Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union
Subject:	COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying document to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing technical requirements for credit transfers and direct debits in euros and amending Regulation (EC) No 924/2009

Delegations will find attached Commission document SEC(2010) 1584 final.

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COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying document to the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing technical requirements for credit transfers and direct debits in euros and amending Regulation (EC) No 924/2009

(Text with EEA relevance)

SEC(2010) 1583 final
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1. INTRODUCTION

Secure, rapid and efficient payment systems are crucial for the conduct of economic transactions and to the proper functioning of the Internal Market. While the euro has facilitated cash payments between Member States since 2002, for electronic payments, a large number of different national payment formats, standards, and rules still remain across Member States.

This divergence has been addressed on the legal side by the Payment Services Directive or PSD (2007/64/EC)[1]. This aims at establishing standardised conditions and rights for payment services offered in the internal market thereby benefitting consumers and companies across the EU. The Regulation on Cross-Border Payments in the Community (EC) No 924/2009[2] obliges payment service providers (PSPs) to charge the same price for cross-border payments in euro up to EUR 50 000 as for corresponding national payments in euro, irrespective of the real costs of transactions.

Building on this common legal framework, the vision of a Single Euro Payments Area (SEPA) is to create an integrated market for electronic payments in euro throughout the European Union. As a result of the introduction of open, common payment standards, rules and practices, SEPA should make electronic payments across the EU – by credit transfer[3], direct debit[4], debit card, and credit card – as easy as domestic payments within one country.

The establishment of such an integrated payments area has enjoyed strong political endorsement at EU and national level. This has encouraged banks to develop pan-European payment schemes. These schemes are designed and implemented by the European Payments Council (EPC), a coordination and decision-making body set up by the European banking sector. The schemes developed by the EPC apply to the EU and closely associated countries with significant euro payment volume, namely the EEA members (Norway, Iceland and Liechtenstein), Switzerland and Monaco.

The accomplishment of a Single Euro Payments Area is very important in an economic, monetary and political context. It is fully in line with the Europe 2020 strategy which aims at developing a smarter economy in which prosperity results from innovation and more efficient use of available resources. The potential direct and indirect benefits of SEPA for the wider European economy exceed EUR 300 billion over a six-year period – assuming that migration to SEPA instruments is comprehensive and rapid[5].

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1 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:319:0001:01:EN:HTML

2 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:266:0011:01:EN:HTML

3 A payment service for the purpose of placing funds at the disposal of the beneficiary. Both the payment instructions and the funds move from the bank of the payer to the bank of the beneficiary.

4 A payment service for debiting a payer's account. The payment transaction is initiated by the beneficiary on the basis of the payer's consent (e.g. mandate) previously given to the beneficiary, to the beneficiary's bank or to the payer's bank. It is typically used to make recurring payments, such as for utility or telephone bills but can also be used for one-time payments, in some countries even at the point of sale.

5 *SEPA: potential benefits at stake*, CapGemini, 2007, http://ec.europa.eu/internal_market/payments/docs/sepa/sepa-capgemini_study-final_report_en.pdf.

Two crucial milestones on the way towards the realisation of SEPA through pan-European schemes have already been achieved, namely the launch of the SEPA Credit Transfer (SCT) on 28 January 2008, and the launch of the SEPA Direct Debit (SDD) on 2 November 2009. The latter represents a true innovation at European level as for the first time it enables direct debits to take place on a cross-border basis. Actual migration from national legacy payment instruments to these core SEPA payment instruments is, however, lagging behind and mainly limited to cross-border transactions using the SCT. Migration rates for the SDD are not yet available but are estimated to be off to an even slower start.

While SEPA was originally conceived of as a market-driven project, there is increasing recognition by stakeholders that a legally binding end-date may be necessary to achieve successful project completion. Furthermore, the current difficult economic climate acts as a disincentive for significant discretionary investment even if this will be profitable over the long term. Indeed, while the preference of the Commission has always been for a market-driven approach, given the importance and the size of the social and economic benefits of SEPA, the Commission expressly reserved[6] the right at an early date to introduce or propose further legislation to achieve it. Therefore, to overcome the current inertia and unlock the long-term economic potential of an integrated payments market, a SEPA migration end-date could be established through which legacy payment instruments would have to be phased-out and replaced by SEPA products. This view is shared by both, the European Parliament and the Council as described below. Detailed statements supporting an end-date, both from a political as well as from a stakeholder view, are provided in Annex 1.

This impact assessment therefore analyses the rationale and potential implications of such an intervention at EU level.

Scope covered by the Impact Assessment

The scope of this document is limited to two payment instruments, euro credit transfers and euro direct debits. Debit cards and credit cards are out of the scope of this assessment as SEPA card schemes and rulebooks, comparable to those for credit transfers and direct debits, have not yet been designed by the industry. Although a general SEPA card framework has been developed by the EPC, further standardisation work is still required before an end-date for card payments s could be envisaged.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The present impact analysis for the setting of a SEPA migration end-date was conducted between September 2009 and March 2010, following the publication of the Communication *Completing SEPA: a roadmap for 2009-2012*[7]. A Steering Group composed of various Commission services (Internal Market and Services; Competition; Enterprise and Industry; Economic and Financial Affairs; Employment, Social Affairs and Equal Opportunities; Health and Consumers and the Secretariat-General) was established for this purpose[8]. Representatives of the European Central Bank (Directorate General Payments & Market Infrastructure) were closely involved in this process.

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6 Joint statement of the Commission and the ECB on SEPA, 4.5.2006.

7 http://ec.europa.eu/internal_market/payments/docs/sepa/com_2009_471_en.pdf

8 Even though not represented in the Steering Group, the Directorate General for Taxation and Customs Union has been consulted on the issue of cross-border bank account opening.

In its opinion 21 May 2010, the Impact Assessment Board (IAB) gave a favourable view on the impact assessment but requested a number of clarifications and improvements. Therefore, as recommended by the IAB, analysis of the reasons for slow migration to SEPA, including the impact of the adverse economic climate, has been further developed in Chapter 3.2.1 and in Annexes 7 and 8. The option of accelerating SEPA migration through enhanced communication and awareness, particularly on the demand side, has been added in Chapter 6.1 and the rationale behind the proposed migration deadlines further developed in Chapter 6.5.5. Chapter 6.2 and Annexes 12 and 15 now present a more detailed analysis of the costs and benefits, including analysis at Member State level, and extensive information on the scope and methodology underpinning the SEPA study carried out by CapGemini. The arguments for non-discriminatory cross-border account opening have been further developed in Chapter 6.5.6. Finally, some reader-friendly improvements have been made to the presentation of the document, including a full summary of the primary SEPA end-date consultation in Annex 3, a glossary in Chapter 9 and a summary table of preferred sub-options in Chapter 6.5.7. In the framework of the inter-service consultation on the proposal for Regulation which ended in July 2010, a provision addressing the long-term business model for pan-European direct debits was added. Following the modification of the Impact Assessment to incorporate the rationale for a proposed regulatory intervention on interchange fees and the additional analysis carried out to this effect, it has been examined by the Impact Assessment Board. The Board's recommendations have led to changes compared to the earlier draft aimed at further clarifying the nature of the problem and the baseline situation, at making the variation in stakeholder opinions transparent and at strengthening the assessment of impacts. Besides, on the initiative of Commissioner Barnier, a Public Hearing has been organised on 17 November 2010 to assist the Commission in the finalisation of its proposal.

The analysis in this impact assessment builds on the extensive preparatory work and a variety of consultations carried out by the Commission since 2006 (see Annex 2 for a chronological overview of the main events as well as references to relevant documents and reports). These include:

– A comprehensive study into the costs and benefits of SEPA migration carried out by CapGemini Consulting. The final study results, published in January 2008, indicate that the potential benefits of a rapid migration from national payment instruments to SEPA instruments[9] were around EUR 300 billion over a six-year period (2007–2012) for the EU economy as a whole. This estimate was based on the assumption of swift and comprehensive migration on both the supply and demand sides. In contrast, the study shows that protracted migration has a significant negative impact.

– A study[10] aimed at preparing the monitoring of the impact of SEPA on consumers, carried out by Van Dijk Management Consultants and published in August 2008. This study provided data on the prices of the means of payment and will allow the comparison of these data with those which will be collected in future studies.

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9 The scope of the analysis by CapGemini includes credit transfers, direct debits and payment cards. As mentioned previously, the last are not in the scope of this Impact Assessment. As will be shown in Chapter 6, however, the overall economic benefits of SEPA mainly relate to operating savings on the demand side, especially for businesses. The latter make relatively rare use of payment cards for their payment operations, consequently the overall share of card payments is low for businesses. Furthermore, having regard to the related processing operations linked to credit transfers and direct debits, operational savings are unlikely to be derived from card payments.

10 http://ec.europa.eu/consumers/rights/docs/SEPA_monitoring_study.pdf

– A public stakeholder consultation on whether and how deadlines should be set for the migration of existing national credit transfers and direct debits to the new SEPA payment instruments. The primary consultation was organised by the Commission services between June and August 2009. Results were published in September 2009 and reveal that a large majority of stakeholders generally expressed support for fixing, at EU level, a deadline for full migration to SEPA (see Annex 3).

– Discussions with the banking industry on the SEPA Direct Debit business model. These discussions focused on the issue of multilateral interchange fees (MIF)[11] and led to the adoption of transitional provisions on MIF in Regulation (EC) No 924/2009.[12] Nonetheless, exchanges of opinions continued as the long term business model for SDD had not been determined. In order to provide guidance to the banks, the Commission and the ECB issued a joint statement in March 2009, followed by a Commission Working Document in November 2009[13]. A public consultation on this document has been completed in December 2009 (see Annex 3a for the summary of its results).

– Annual consultations on SEPA through the European Business Test Panel. The last consultation was undertaken in the second half of 2009 and more than 400 enterprises participated. These were composed of 85 % SMEs and 15 % larger corporations. The 2009 consultation included questions on phasing out legacy payment instruments and setting a SEPA migration end-date. Almost 70 % of the respondents argued that SEPA instruments should not only complement but should replace existing legacy instruments. Around two thirds of respondents favoured setting a migration end-date by regulation.

– A questionnaire sent to selected banks by the Commission services in December 2009–January 2010. This questionnaire concentrated on the specific issue of duplicate costs incurred by individual PSPs for running payment systems and processes (payment platforms) for existing national payments and new pan-European SEPA payments in parallel. For this purpose, 19 of the largest banks or banking groups in Europe, representing a mix of commercial, savings, and cooperative banks from nine countries, were selected. A large majority of respondents indicated that such costs were significant and therefore supported an end-date for full migration to SEPA. Even if a sample of this size cannot be considered fully representative in statistical terms, it can nevertheless be assumed that the replies received from these banks are a reasonably valid indication of the importance of duplicate costs across different bank categories and in different Member States.

– Similar surveys sent out to payment processors and to payment service users (mostly businesses) did not yield a sufficiently high response rate for analysis. Half of the respondents however indicated that there were duplicate costs for running legacy and SEPA payment platforms. On the other hand, it must be recognised that payment

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11 Multilateral interchange fee is the amount paid by a payment service provider of the payee to the payment service provider of the payer as a remuneration for each direct debit transaction. See Glossary in Chapter 9.

12 Articles 6 and 7 as well as Recital 11 of Regulation (EC) No 924/2009 on cross-border payments in the Community. The provisions of these Articles will expire on 31 October 2012.

13 For more information and full texts of these documents see: http://ec.europa.eu/competition/sectors/financial_services/banking.html/

users do not face the same investment pressure and do not incur duplicate costs as banks and processors since users can delay SEPA migration as long as legacy instruments are still available.

– A variety of discussions and exchanges of opinions were held between 2008 and 2010 with Member States, financial institutions, consumer organisations and other social and economic partners, notably through the existing consultative committees on retail payments, namely: the Payment Systems Market Expert Group (PSMEG), the Payments Committee (PC) and the EU Forum of national SEPA Coordination Committees. As regards PSMEG members, their comments closely reflected those made in the public stakeholder consultation mentioned above. Concerning the PC members, almost all of those expressing a view were in favour of setting a binding migration end-date.

3. POLICY CONTEXT AND PROBLEM DEFINITION

3.1. Background and context

An overview of the historical background of SEPA and the aim of integrating the European payments market is provided in Annex 4.

3.1.1. Nature and size of the market concerned

This chapter analyses the situation of the EU retail[14] payments market focussing on credit transfers and direct debits. These two payment instruments together represent around 54 % of all retail electronic payments in the EU27 in terms of transaction volume (or around 42 billion transactions in 2008)[15]. In terms of transaction value, retail credit transfers and direct debits represent over 95 % of non-cash payment transactions in the European Union (or EUR 248 trillion in 2008, which is roughly 20 times more than the 2008 GDP of the EU).

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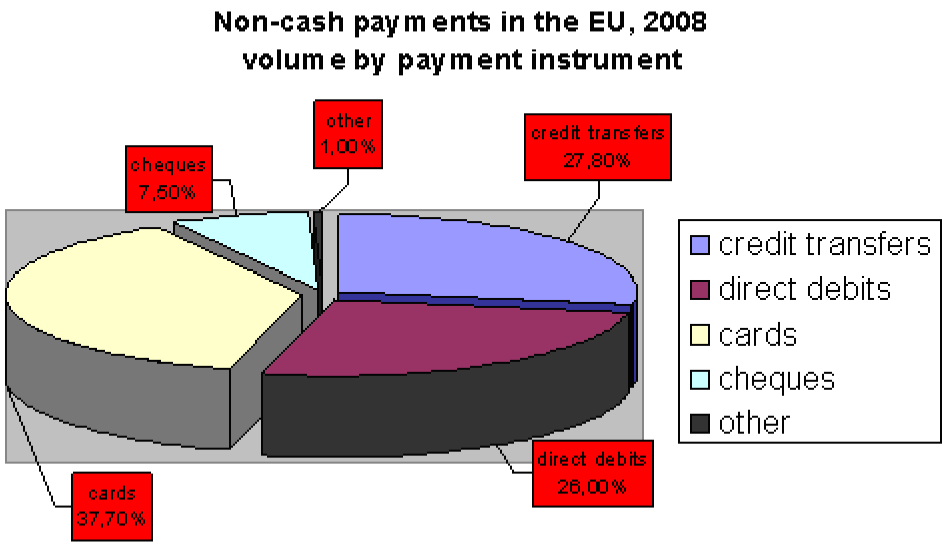
14 Retail payments typically mean payments on behalf of bank customers, such as individuals, companies, and public authorities.

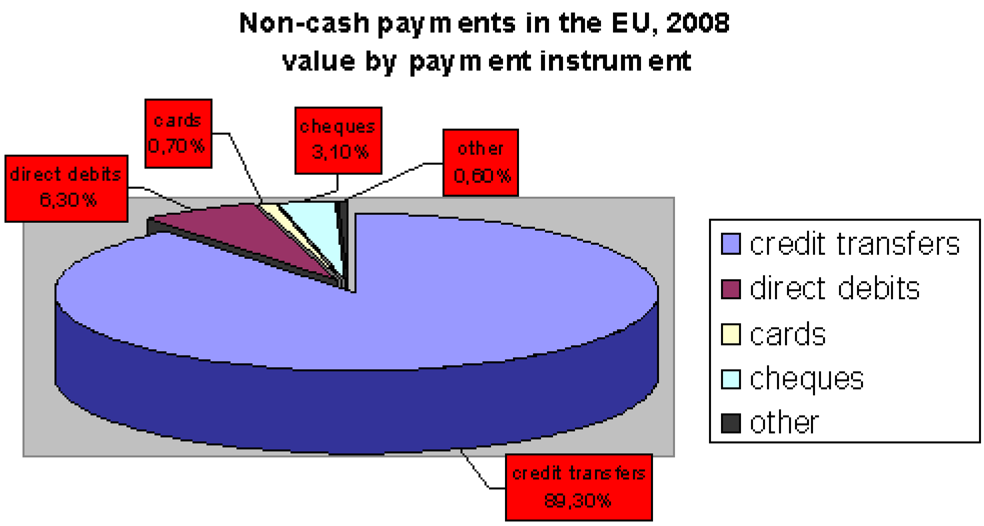
15 *ECB Payment Statistics*, September 2009.

Graph 1: Non-cash payments in the EU – volume by payment instrument



Source: ECB, Comparative tables, Retail transactions

Graph 2: Non-cash payments in the EU – value by payment instrument



Source: ECB, Comparative tables, Retail transactions

More detailed volume and value data on the use of different payment instruments by Member State is provided in Annex 5. As mentioned in the introduction, the analysis in this Impact Assessment is restricted to credit transfers and direct debits in euro. Cards, cheques and other instruments are out of scope of this assessment and are therefore not further discussed in this document.

3.1.2. *Actual migration status of SEPA*

SEPA is now a market reality. The SEPA Credit Transfer scheme (SCT) has been launched on 28 January 2008 and around 4 500 banks, representing more than 95 % of the payment volume in the EU, adhere to this scheme (status December 2009). Furthermore, the launch of the SEPA Direct Debit scheme (SDD) has taken place on 2 November 2009 and by December 2009 almost 2 700 banks, representing around 70 % of the EU payment volume, adhered to the scheme.

Scheme adherence is however only one pre-condition for the development of SEPA, even if a crucial one. Progress in terms of payment market integration is determined by actual usage of SEPA instruments and in this respect migration results are disappointing. As of April 2010, only 7.5 %[16] of all credits transfers processed by clearing and settlement mechanisms located in the euro area were executed in the SCT format. In most Member States, SCT transactions were mainly limited to cross-border transactions. Public Administrations as high-volume payment users were even falling short of this with an average SCT rate of only 1.5 % in the euro area (status September 2009 as compared to overall SCT rate of 4.5 %)[17]. As regards SDD, it is still too early to assess actual migration only a few months after the launch of the scheme. Nonetheless, a first observation can already be made: while many banks are already reachable for SEPA direct debits, only a very small number of them seem to actually market the SDD payments.

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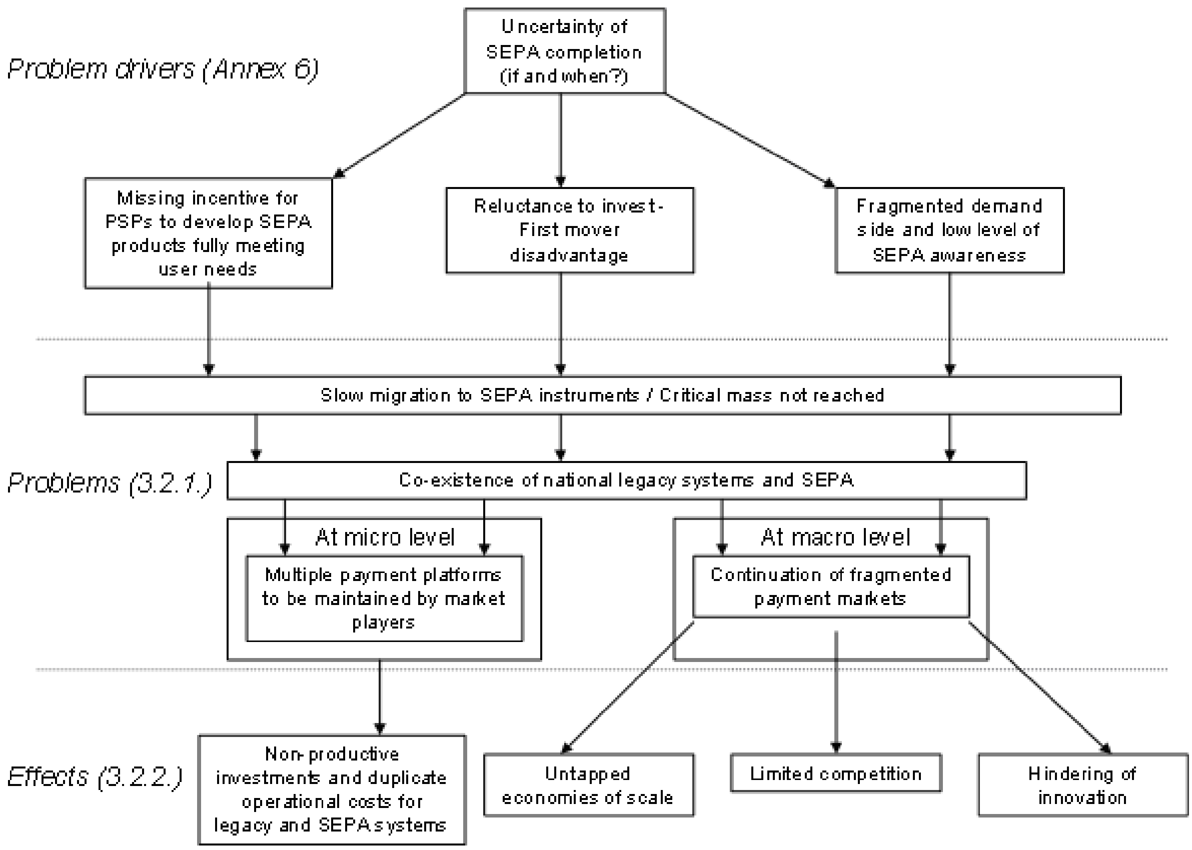
16 Latest figures on http://www.ecb.int/paym/sepa/timeline/use/html/index.en.html.

17 *2nd SEPA Progress Report*, Commission Services, November 2009, http://ec.europa.eu/internal_market/payments/docs/sepa/progress_report_2009_en.pdf.

3.2. Problem definition

An illustrative description of the problem and market failure underlying this Impact Assessment is provided in the problem tree below.

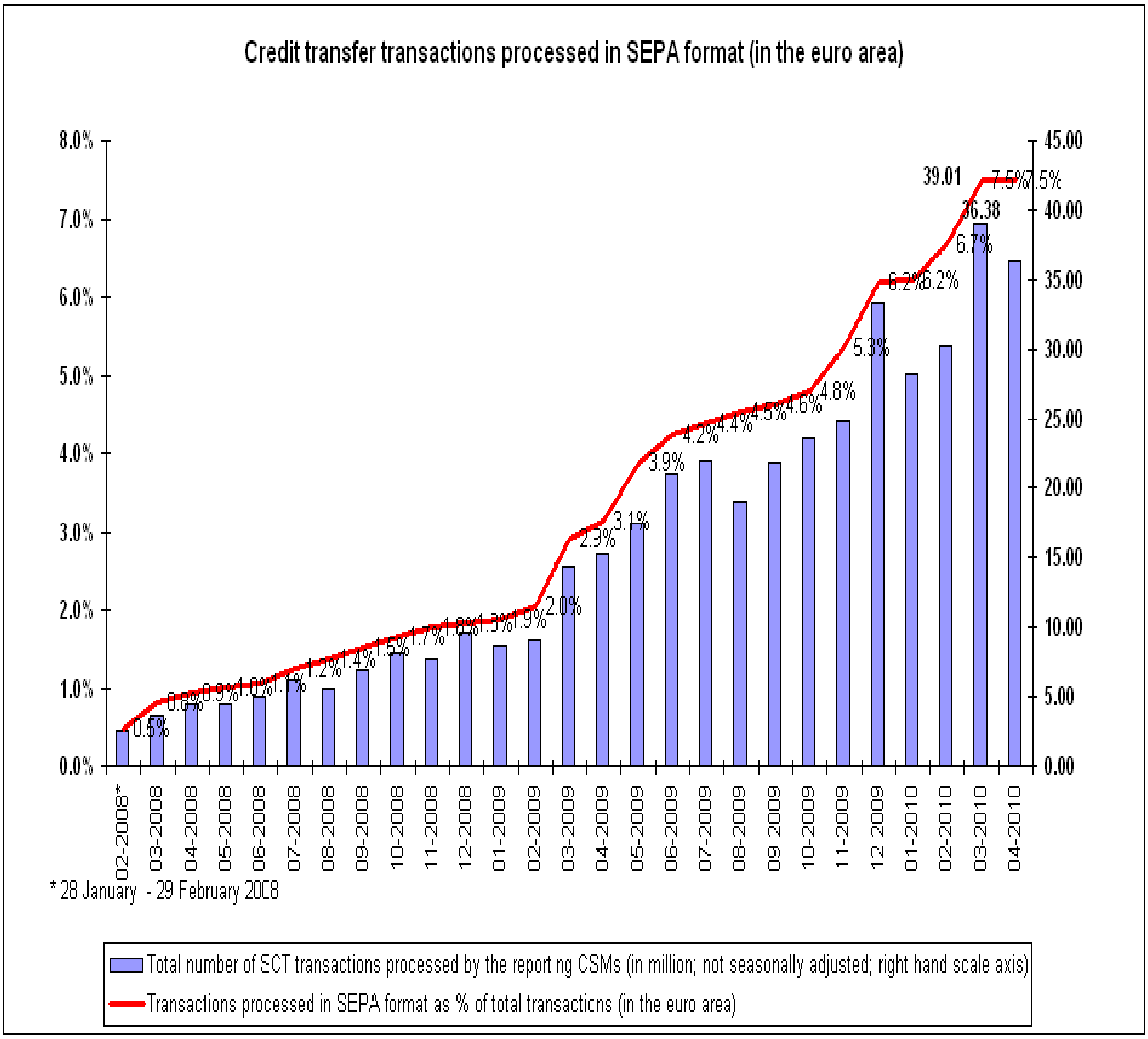


3.2.1. *Specific problem: Slow migration to pan-European credit transfer and direct debit resulting in co-existence of national legacy systems and SEPA*

As discussed in the previous chapter, full integration of EU payment markets with all the expected benefits will only be accomplished once pan-European payment instruments will have completely replaced the national legacy instruments.

At the current time, however, the pan-European payment instruments (SCT and SDD) are far away from full substitution of national payment schemes, although the usage rate of SCT varies significantly between Member States. Specific target dates for replacing national instruments with the SCT and SDD schemes have only been set in a small number of countries and often are conditional on attainment of a 'critical mass' of SEPA payments rather than defining a concrete deadline. Based on the current SCT migration rate of 7.5 % more than two years after launch (see Graph 3 below), linear extrapolation would imply complete SEPA migration after 30 years. Even in a more optimistic scenario, it seems very unlikely that SEPA migration would be completed in less than 15–20 years without additional intervention. Annex 6 presents an overview of national SEPA migration plans, while Annex 7 provides statistics on SEPA migration progress by the Member State and identifies possible success factors which promote rapid migration.

Graph 3: Credit transfer transactions processed in SEPA format (in the euro area)



Source: European Central Bank

While SEPA migration shows a relatively steady upwards progression, there remain notable differences in the degree of SEPA readiness between the supply (banks and other payment service provides) and the demand sides (companies, public administrations and individual consumers) of the market. As mentioned before, the technical capability to handle SEPA transactions and offer the corresponding SEPA payment instruments already exists on the supply side, investment in SEPA compliance has already been made (in particular for SCT) or is in progress (for SDD). However, many EU PSPs are reluctant to actively promote SEPA payments while legacy payments exist. One of the more prominent results of the cost–benefit analysis of SEPA migration (see Chapter 6.2 and Annex 15) is the fact that due to enhanced competition, the supply side is expected to experience sizeable revenue reduction upon full SEPA migration. Nevertheless, major international banks operating across many different Member States see an opportunity to increase payments market share by offering standardised products, a better, more integrated service and the cross-selling of other cash management products to 'premium' users, typically larger businesses with cross-border activities. On the other hand, smaller banks, less internationally oriented, may fear that although they have to make comparable investment, they will not enjoy the same business opportunities and will be more affected by revenue compression. At the same time, there seems to be a view by banks, that they have now undertaken the basic SEPA compliance investment and are awaiting more commitment in public authority migration and, in particular, a binding end-date before actively marketing SEPA.

The reluctance of EU PSPs to invest in SDD is exacerbated by the perceived lack of legal certainty on an appropriate long term business model for SDD complying fully with EU competition rules after November 2012. Although only currently in place in a handful of Member States (see below), the business model under focus has been the one of a multilateral interchange fee (MIF) per transaction, i.e. a collectively agreed fee to be paid by the payment service provider of the payee to the one of the payer for each DD transaction. MIFs per transaction are taken to be a restriction of competition, in particular by object as such an arrangement sets a collectively agreed floor for the fees that payee banks charge to their corporate customers, which in turn will have to pass on these inflated fees to their consumers through their bills. Since the consumer's own bank – the payer bank – receives its revenues from the payee bank it might not charge the consumer, who might then thinks he receives the service for free whilst the consumer has no way of knowing that he pays indirectly through the company beneficiary of the direct debit and how much he pays. However, to incentivise banks, in particular the ones which currently receive high MIFs, to migrate towards SDD, the cross-border payments Regulation (EC) No 924/2009 contains a transition regime with respect to the acceptability of multilateral interchange fees as a financing model for direct debit transactions, in force until 31 October 2012. Under this transition regime, per transaction MIFs applied for national direct debits can be maintained, unless competition proceedings at national level would lead to these MIFs being decreased, in which case this lower level would apply. A transitional default MIF of maximum 8.8 cents for cross-border SEPA direct debit transactions (that applies if no other, lower MIF is agreed) has also been set. MIFs for R-transactions (i.e. direct debit transactions that cannot be properly executed or are being reclaimed by a payment service provider[18]) are also in place in five Member States, three of which also have a MIF per transaction in place. At present the direct debit schemes of only six EU Member States – 25 % of the market in terms of volume – operate with a per transaction MIF. Currently, such per transaction MIFs exist in Belgium (2 cents per transaction), Spain (less than 3 cents), Sweden (11 cents), France (12 cents), Portugal (23 cents), and Italy (25 cents) and are gradually decreasing in most Member States. R-transaction MIFs of varying sizes exist in Austria, France, Germany, Portugal and Spain (for a minority of labour intensive R-transactions Business models with MIFs for R-transactions which have been set up as a financing mechanism (i.e. not to compensate and allocate the costs of R-transactions only) tend to have equivalent effects to MIFs per transaction business models[19]. Some PSPs believe that further legislation is needed to clarify the validity of a long-term business model after this date. This is clear from the comments received by the Commission services to their respective public consultations on end-date(s) for SEPA migration and on the Commission Working Document on the applicability of Article 81 EC to MIFs[20]. The perceived lack of legal certainty means that PSPs may try to maintain their existing schemes for as long as possible and delay the effective transfer to the SEPA systems.

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18 See Glossary in Chapter 9.

19 See the Commission Working Document on the *Applicability of Article 81 of the EC Treaty to multilateral interbank-payments in SEPA Direct Debit*, published on 3.11.2009, p. 11.

20 http://ec.europa.eu/competition/sectors/financial_services/SEPA_working_document.pdf
See in particular the responses received from Banque Postale, Deutsche Sparkassen and ESBG.

Also, earlier calls for clarity by the European Institutions (for more details please see Annex 1a) illustrate the concerns that the lack of such clarity and predictability with respect to the long term business model is a key problem inhibiting the effective establishment of a Single Euro Payment Area with respect to direct debit transactions.

The perceived lack of clarity may therefore lead to a slower take up of SEPA direct debit services by banks and providers of direct debit payment services. This risk of a slower take up as a consequence of a lack of clarity has in particular been highlighted by the European Central Bank (ECB). In its *7th SEPA Progress Report* published on 21 October 2010[21] the ECB signals that although the launch of SDD was a major achievement, the figures on the take up of the system in the first few months after the launch have been fairly modest, amounting to well below 1 % of transactions. Identifying the multilateral interchange fee (MIF), as one of the issues that has proven quite complex to solve the ECB notes that the Regulation on cross-border payments only provides a temporary charging model for direct debits until 1 November 2012. The ECB adds that the financial industry expects the European Commission to provide clarity on the long term charging principles for SDD in order to avoid concerns over competition. In conjunction with the issue of the reluctance to invest exacerbated by the perceived lack of clarity, the necessity for the clarity provided to comply with competition rules and the earlier guidance already provided will be addressed in more details further below (see 6.5.7).

On the demand side (in practice mainly companies and public administrations, as consumers do not need to undertake any specific migration investment, apart from changing some habits) there is an even stronger reason to maintain the status quo. Basically, as long as the old legacy systems remain operational, the demand side does not need to undertake any significant SEPA investment and can delay migration indefinitely. This attitude will be reinforced by the adverse economic climate which militates against investment – even if in the longer run, this will ultimately be to the advantage of users. This assessment is shared by stakeholders. For example, anecdotal evidence provided by corporate treasurers indicates that as long as no deadline for migration is set, it remains difficult for them to secure the necessary priority for SEPA-related investment within their company. (see also Annex 8: reasons for slow migration: reluctance to invest). Public administration migration, which could serve as a catalyst for changes, is lagging behind in many Member States (although there are exceptions) due to the lack of a coordinated effort, insufficient public involvement in the migration process and partly due to the complexity of the process. As a result, SEPA investment by the demand side lags the supply side.

The danger of a protracted transition period is also exacerbated by the aftermath of the financial crisis and the current adverse economic climate. As mentioned above, this induces a very cautious approach to further SEPA investments by some PSPs and companies. Thus, on the supply side, while investment in SCT is largely finalised, the far more costly investments for SDD have been temporarily postponed in several banking communities or limited to ensuring only passive SDD reachability as required by law (cf. Article 8 of Regulation 924/2009). In general, most banks have also pruned their marketing budgets for SEPA and do not make particular efforts to promote existing SEPA solutions. In fact, in some cases, particularly outside the euro area, fees for SCT payments, which were initially much more attractive than for pre-SEPA payments, have been increased, as banks seek new sources

21 7th Progress report on SEPA, p. 42, http://www.ecb.int/pub/pdf/other/singleeuropaymentsarea201010en.pdf, p. 17.

of revenue. On the demand side, as mentioned before, many companies find it difficult to assign specific budgets to SEPA migration, as it promises savings in the future while existing legacy instruments do not require any immediate investment. The impact of the most recent debt crisis and austerity measures taken by several Member States are also not propitious to new investment. Moreover, these types of effects are aggravated in a network business where the utility of the system depends largely upon all parties migrating. Since there is no certainty that all will move, the safest course is to stick with existing payment products and stagnant or slow migration is the result.

However, at the same time, for early movers, the parallel existence of national and SEPA instruments causes significant operational complexity and extra cost at micro level. Individual market participants on both the supply and demand sides have to maintain and update multiple platforms for their payment processes. At the macro level, this leads to continued market fragmentation with the attended consequences, such as: unrealised economies of scale, barriers to competition, price and quality divergence for payment services, and hindered innovation at European level.

In summary, the SEPA project is far-reaching, and complex, and has an impact on many different categories of stakeholder. This leads to a number of different perspectives on SEPA which are hard to align, especially where a concerted migration effort by the market as whole is needed in a network business environment. The result is gridlock and market failure. As long as existing legacy payment instruments can be used and banks do not actively market compelling SEPA products, payment service users will for the reasons described above delay the required migration efforts. On the flipside, banks will shy away from promoting SEPA products (and fully investing in SEPA) until their customers are 'SEPA-ready' and due to revenue considerations. Furthermore, even though SEPA is highly advantageous to users, the high demand side fragmentation and lack of awareness of SEPA benefits, means that the demand side will not be able to drive forward migration. In conclusion, both sides of the market – supply and demand – will tend to wait for the other to move first and for clarity over the SEPA migration timeline to be provided by the regulator.

Annex 8 provides a more detailed analysis of the individual problem drivers.

3.2.2. Effects of slow migration without an end-date: a baseline scenario

3.2.2.1. Effects at macro (market) level

Untapped economies of scale due to diverging payment standards and processes

Despite the existence of pan-European payment instruments (SCT and SDD), payments within the EU, especially domestic transactions, are still predominantly in national legacy formats. This situation will prevail as long as national systems and SEPA co-exist.

Today, national legacy credit transfers and direct debits significantly diverge across Member States. Especially account identifiers and payment message formats vary highly between Member States. Remittance information carried with a payment differs substantially regarding length and format. While in some Member States this information may be structured to facilitate fully automatic reconciliation of payments, in others only short free text messages are possible. Most Member States still use legacy account identifiers (Basic Bank Account Number – BBAN), allowing national transactions only. Different identifiers – IBAN and BIC – as well as different message formats are used for cross-border credit transfers within the Community. Additionally, in 12 Member States users or banks, on behalf of the users, are requested to report all cross-border payments above the level of EUR 50 000 for statistical balance-of-payment purposes.[22]

Annex 9 presents a detailed overview of these differences by Member State.

Moreover, the number and variety of payment schemes and processing infrastructures for retail payments have not changed significantly since the introduction of the euro and the launch of SEPA. In 2009, there were still around 40 different, national retail payment systems in the EU. While 17 of them dealt with payments in currencies other than the euro, this still leaves over 20 different national processing infrastructures and schemes for retail euro payments, with different standards, operational aspects, cost structures, and levels of efficiency. Annex 10 provides an overview of payment systems by Member State.

The differences in payment formats and payment processes described above represent severe barriers for the inter-operability of payment services between Member States. More importantly however, these differences impede the realisation of substantial economic scale effects for those market participants on the supply and demand side which operate or desire to operate in more than one Member State. The current situation therefore results in substantial opportunity cost, both for the processing and for the usage of credit transfers and direct debits.

A study published in the Journal of Banking & Finance in 2008[23] confirms that there are substantial untapped scale economies in payment processing. The study suggests that in quantitative terms a doubling of the payment transaction volume only leads to 25–30 % higher operational cost[24].

Varying degrees of payment processing efficiency also have direct implications on the costs of payments incurred by banks. A study undertaken by A.T. Kearney analysed the costs of payments for 40 leading banks in Europe in 2007[25]. The results showed that banks in the most efficient EU countries were able to process an electronic national payment at only one eighth of the cost incurred by banks located in least efficient countries.

Unexploited economies of scale are however not limited to the supply and payment processing side of the market. Payment users, i.e. businesses operating in a multi-national environment still need to organise their treasury operations and cash pools at national level. For this purpose, they have to maintain relationships with a multitude of PSPs offering different kinds and levels of services using different payment formats. All this limits the benefits of a common currency and significantly adds to the complexity and cost of the

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22 This generates important additional costs on cross-border payments and affects automated processing of payments.

23 *Size matters: Economies of scale in European payments processing*, C Bejnen & W Bolt, Journal of Banking & Finance 33, 2009, p. 203–210, http://www.sciencedirect.com/science?_ob=MImg&_imagekey=B6VCY-4T1Y3SJ-2-7&_cdi=5967&_user=586419&_orig=na&_coverDate=02%2F28%2F2009&_sk=999669997&view=c&wchp=dGLbVlz-zSkzS&md5=3376eb71bdc1124f96e6b907b97a0978&ie=/sdarticle.pdf.

24 Apart from the payments already processed via retail payment systems, there is a substantial untapped potential of payments which is still processed via correspondent banking relationships. In some countries (e.g. in Germany or Austria) the share of payments exchanged via correspondent banking relationships is still higher than the one exchanged via retail payment infrastructures. Therefore not only a consolidation of payment systems might be induced by a successful SEPA migration, but also a shift from correspondent banking to clearing and settlement infrastructures. This could further increase the efficiency of the European retail payments landscape.

25 See *The SEPA Shake-Out. Challenges in cards and payments*, A.T. Kearney, 2008.

liquidity management of these businesses. The same holds true for SMEs and micro-enterprises which face significant barriers to develop efficient payment operations when entering foreign markets because of the complexity of setting up new payment processes.

In summary, as long as different national payments systems, instruments and formats are used, the economies of scale and potential benefits of a fully integrated payments market will not materialise which means foregoing substantial saving opportunities at EU level.

Limited competition in the EU payments market

The payment industry is a network industry and therefore to achieve inter-operability and competition, it is necessary to first establish a substantial degree of harmonisation through common standards and processes. Currently, any PSP planning to enter a foreign market for payment services needs to fulfil a number of purely national, technical and business requirements. In particular, different payment scheme specifications (e.g. different technical specifications, testing and certification procedures) need to be implemented which in some cases can take between 6 and as much as 12 months. Also, different payment schemes apply different financing mechanisms some of which are under scrutiny by competition authorities or could well be challenged for compliance with competition before national courts (see below). This results in complexity, cost and delay which cumulatively represent a significant barrier for operators desiring to offer payment services abroad.

Restricted market entry and mobility for foreign PSPs limit competition from one direction. Conversely however, cross-border mobility of payment service users is also an important requirement for competition to be fully effective in the payments market. Customers should be able to choose the best payment offer on the market, no matter where the PSP offering the services is located, be it in the same Member State or in another. Higher customer mobility across borders promotes more elastic demand which in turn leads to more intensive competition. The sectoral inquiry on retail banking by the Commission Services supports the conclusion that "…restricted customer mobility has profound implications for the intensity and nature of competition in the retail banking industry…".[26]

Experience has shown that there are major hurdles to the cross-border mobility of consumers demanding payment services. The opening of a payment account in another Member State today is often refused by PSPs on the mere basis that the consumer is not a resident or a national of the Member State concerned. Furthermore, as European payment users and consumers become increasingly mobile, and work, travel, study and retire in different Member States of the Single Market, there is a growing need for them to be able to open a payment account on a cross-border basis. Although there has been a spectacular growth of online banking services at national level, this growth has not been replicated at a cross-border level. In theory, distance is not a relevant parameter for the provision of online banking services but in practice residency obligations blocks the development of this market. Not having this possibility creates a gap for a fully integrated payments market in which citizens should be able to make all payment transactions from one single payment account which is not necessarily in the country of residence.

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[26] http://ec.europa.eu/competition/sectors/financial_services/inquiries/sec_2007_106.pdf

This need to open payment accounts on a cross-border basis has been confirmed by a significant number of complaints which the Commission receives from citizens on a regular basis. These complaints concern a large number of different Member States[27] where a PSP has refused to open a payment account on the grounds of nationality or place of residence (see examples in box below). Questions to the Citizen Signpost Service (CSS) of the Commission focussing on situations with a cross-border dimension corroborate these difficulties[28]. In an enquiry run by the Commission Services with a number of national banking associations[29], it was confirmed that there were no specific regulatory requirements or limitations at national level which would justify a general restriction of payment account services to residents only. Nevertheless, some of these banking associations acknowledged that a significant number of individual banks refuse to open payment accounts to non-residents as a matter of principle[30].

Anecdotal evidence based on citizen complaints sent to the European Commission: – A Belgian resident's request to open an online bank account has been refused by several Dutch PSPs on the basis of him not having a residence in the Netherlands. – A German pensioner living in Spain tried to open a bank account with a German PSP for receiving her pension but was told she needed a permanent residence in Germany to do so. – A Belgian resident owning a flat in London wanted to open a bank account with a UK PSP to handle her rent income but was refused on grounds of not being a UK resident. – A request to open a bank account by a Romanian citizen studying in France was rejected by a French PSP on the basis of the student's nationality.

Consequently, the choices of users for purchasing payment services are often restricted to incumbents of national markets and the provision of payment services on a cross-border level is either non-existent or much more complicated than necessary.

Ongoing fragmentation and limited competition in the European payments market are also important factors in explaining the differences in price levels for payments across the EU. The price of current account payment services varies dramatically between Member States as a recent study of Van Dijk Management Consultants on behalf of the European Commission demonstrates[31]. In particular, this affects consumers, micro-enterprises and SMEs as corporates have stronger bargaining power and the possibility to seek tender offers for their payment needs. Annex 11 provides a detailed overview of the different bank account prices across EU Member States.

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27 Over the past three years, the Commission Services have received complaints concerning PSPs in Austria, Belgium, Czech Republic, France, Germany, Italy, Ireland, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Spain and United Kingdom.

28 Of all questions received by the CSS in relation to financial services during a 14-month period in 2006 and 2007, 28.6 % of all enquiries concerned the opening of bank accounts. Questions on bank accounts were the leading category of all seven financial services concerned.

29 In this context, the Commission Services corresponded with national banking associations in Austria, Belgium, France, Luxembourg, Netherlands and United Kingdom.

30 For example, in its letter of 19.9.2008 to the Commission Services, the British Banking Association (BBA) wrote that "…many [financial] institutions are concerned over fraud implications of non-residents' access to bank accounts, so have limited their offer to residents for now".

31 Van Dijk Management Consultants study for the European Commission, 2009, http://ec.europa.eu/consumers/rights/docs/study_bank_fees_en.pdf.

In summary, as long as competition in the European payment market is hampered by fragmentation along national barriers, simplification of payment processes, effective competition and downward price convergence will be difficult to achieve.

In addition to these general aspects, as regards direct debit specifically, the persistence of business models based on MIFs per transaction or on MIFs for R-transactions set up to finance the whole operation of the direct debit system also restrict competition and prevent the emergence of an effective, efficient and competitive market.

The reasons why per transaction MIFs restrict competition, are harmful to consumers and, according to current market information, are not necessary or indispensable for the efficient use of direct debit schemes, have been extensively described in the Commission Working Document published in November 2009 that was followed by a public consultation[32]. This document – inter alia – explained that MIFs result from a collective agreement between payer and payee banks that restricts competition between the payee banks on the fees they pay to payers' banks. Such an arrangement distorts the competition between payee banks by setting a floor for the fees that payee banks charge to their corporate customers. Companies will have to pass on these inflated fees to their consumers through their own bills. Since the consumer's own bank – the payer bank – receives its revenues from the payee bank it might not charge the consumer, who might then think he receives the service for free. This is however not true as costs are being passed on by the companies to their customers, the final consumers. The consumer has no way of knowing that he pays indirectly through the company beneficiary of the direct debit and how much he pays.

Even if the consumer would know that his bank is charged for the transaction and if he would know the level of the fee, the collective character of the fees prevents the consumer from 'shopping around' and switching to a bank that will charge less for direct debit transactions with counterparties. Commercial enterprises whose banks are being charged this 'minimum floor' are equally restricted in eliciting lower banking fees. In fact, however, the collectively fixed, hidden, fee is not observed by any of the users of the direct debit service. Neither the companies, nor the consumers are therefore able to verify the level of the fees or exercise a competitive pressure on them.

It is for this reason that it is concluded in the Commission Working Document that MIFs per transaction are taken to be a restriction of competition, in particular by object[33].

As to stakeholder views and the reasons why alternative business models to MIFs per transaction under which the payer is charged directly appear both more efficient in terms of an effectively functioning market to the benefit of companies and consumers, please refer to Annex 3a.

[32] Cf. footnotes 16 and 17.

[33] Commission Working Document, p. 6.

Hindered innovation

A fragmented payments market impairs the emergence of efficient pan-European payment related innovations, such as online[34] and mobile[35] payments (e- and m-payments), or novel services which precede or succeed payment processes in the financial supply chain, such as e-Invoicing or e-Billing[36].

These new payment channels could promise significant potential at global level, both in terms of economic benefits and user convenience, in particular for consumers and SMEs. Recent estimates by Juniper Research suggest that purchases via mobile devices of digital and physical goods will generate transactions worth over USD 600 billion globally by 2013[37]. This means that the transaction volume for m-Payments is expected to grow over tenfold between 2008 and 2013. Similarly, the market for online payments is growing strongly. Deutsche Bank Research estimates that the turnover in e-Commerce in Europe will be growing from USD 130 billion in 2006 to more than USD 400 billion in 2011, representing an average growth rate of 25 % annually[38]. e-Invoicing currently experiences growth rates of around 40 % annually across Europe according to studies by Billentis[39]. The number of enterprises currently applying e-Invoicing in Europe is estimated to have crossed the 1 million threshold (out of a total of 23 million).

Based on the growth potential indicated above, it is not surprising that in its conclusions of 2 December 2009, the ECOFIN Council called "…upon industry to deliver solutions for online electronic payments (e-Payments) and for mobile payments (m-Payments)…". However, market fragmentation currently hinders the emergence of potential pan-European payment innovations and consumers can only benefit from these services in their own domestic market. Technical differences between national payment formats and infrastructures on which e- and m-services are built represent a major hurdle for the supply side. New market entrants or existing payment providers who would like to start offering innovative services see their business case restricted to the national market which limits the scalability of the potential revenues and therefore discourages start-up investments. Similarly, market fragmentation also reduces potential economies of scale on the cost side of these new initiatives and makes it difficult for existing schemes, interested in establishing interoperability, to justify this with a viable business case. More importantly, as innovative services mostly emerge at national level only, there is a risk that market fragmentation is increased and perpetuated.

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34 Online payments are defined as payments for which the payment instruction and payment data are transmitted via the Internet. Online payments can but do not necessarily have to be performed through online banking systems.

35 Mobile payments are defined as payments whose initiation is performed by using mobile phones.

36 e-Invoicing is the electronic transfer of billing and payment information, via the Internet or other electronic means between the trading parties – businesses, the public sector, consumers – involved in commercial transactions.

37 Press Release: *Juniper Research Forecasts Total Mobile Payments to Grow Nearly Ten Fold by 2013*, http://juniperresearch.com/shop/viewpressrelease.php?pr=106.

38 *E-Payments: Potenziale innovativer Bezahlsysteme*; S Heng, DB Research, January 2008, http://www.dbresearch.com/PROD/DBR_INTERNET_EN-PROD/PROD0000000000220279.pdf.

39 *E-Invoicing/E-Billing: European Market Overview & Forecast*; B Koch, Billentis, February 2010, http://www.billentis.com/ebilling_e-invoicing_European_Market_Overview_2010.pdf.

A multitude of different systems, standards, and rules in different countries also negatively impacts the development and security of innovative payment methods. A recent Commission report[40] identified the lack of interoperable and efficient payment solutions as one of the major burdens for cross-border e-commerce in the EU. The report reflects the results of a survey on cross-border sales and consumer protection. 63 % of the retail enterprises participating in this survey see a higher risk of fraud and non-payment in cross-border electronic sales compared to domestic sales[41].

In summary, the continuation of a fragmented payment markets presents a significant barrier for the emergence of novel payment means and channels at pan-European level, having potential repercussions on the competitiveness of the EU payments market in comparison to other regions, such as North America or Asia.

3.2.2.2. Effects at micro (individual market participant) level

Non-productive investments and duplicate operational cost for legacy and SEPA systems

The provision or use of electronic payment services requires a dedicated IT infrastructure. The necessary systems and processes for such an infrastructure need to be developed and set-up with significant investments in human and financial resources. More importantly however, payment systems and processes require ongoing maintenance to ensure their continuous and seamless integration with all other business processes throughout the financial supply chain. On the supply side, there is also a significant commercial cost of providing payment services which often exceeds the purely system related cost of payments, for example product management, sales, and client services costs.

At this stage, many (typically supply-side) participants in the European payments market suffer from duplicate, transitional costs of providing or using payment services. Simultaneously maintaining national legacy payment platforms and a new pan-European SEPA platform requires significant extra resources and leads to a missing return on investment already taken. This is particularly true for PSPs which are subject to both technical and commercial costs related to the provision of payment services. At the same time, early movers to SEPA on the demand side, for example corporates who wish to integrate payments on a cross-border basis, also suffer from duplicate system and process costs. The duplicate cost for PSPs and users of payment services can only be eliminated by comprehensive and concerted migration to SEPA and the subsequent closing down of legacy payment platforms.

The current situation in the payment market is characterised by both the supply and demand side delaying at least part of their investments into SEPA compliant systems and infrastructure because of the uncertainty around SEPA completion. As pointed out above, a linear extrapolation of the baseline 'no-change' scenario would result in completion of SEPA only after 30 years.

According to the cost-benefit analysis, developed in the SEPA study by CapGemini (see Annex 12 for details on scope and methodology used) protracted migration to SEPA would result in an overall loss of EUR42billion for the economy as a whole over a six-year period. Of this loss, the supply side would incur EUR15billion and the demand side EUR 27 billion,

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40 http://ec.europa.eu/consumers/strategy/docs/com_staff_wp2009_en.pdf

41 It is therefore not surprising that the European e-Commerce and mail order trade association (EMOTA) in a letter to the EPC called upon banks to come forward with a proper solution for e-Payments.

almost completely driven by higher investment and operational cost due to the running of duplicate systems, i.e. for legacy payment products and for SEPA products.

Table 1: Baseline scenario: impacts for supply and demand side of the market

Supply side (EUR billion)	
Reduced revenues	-8
SEPA investment	-7
Operational savings	0
Total effect supply	**-15**

Demand side (EUR billion)	
Reduced prices	+8
SEPA investment	-10
Operational savings	-25
Total effect demand	**-27**

Source: CapGemini SEPA study

The negative effects would be spread over all stakeholders with the exception of consumers who would realise slight gains even under a slow migration scenario, because of general downwards price convergence and the absence of the need to invest.

Table 2: Baseline scenario: economic effects for stakeholders

Stakeholder	Baseline scenario (EUR billion)
Payment service providers	-15
Corporate businesses	-11
SMEs	-11
Merchants	-3
Public administrations	-6
Consumers	+4
Total effect	**-42**

Source: CapGemini SEPA study

Independently, in August 2007 the ECB also conducted a major study into the costs and benefits of SEPA on the supply side which confirmed the view that a dual SEPA implementation phase should be as short as possible. A longer migration period would give rise to higher costs than a shorter period according to the study. In particular, the ECB estimates that running national and SEPA systems in parallel increases the PSP's total cost base for making payments by around 4.8 %[42]. In combination with the CapGemini and A.T. Kearney studies which measure the total cost of payments in absolute terms, this would translate into additional costs of around EUR 2 billion annually for banks in the EU27 – just for credit transfers and direct debits.

Anecdotal evidence which the Commission Services collected in the context of this Impact Assessment, clearly confirms the problem of substantial duplicate costs. As the public consultation on SEPA did not explicitly inquire about duplicate costs for legacy and SEPA payments, the Commission Services decided to contact banks individually to gather supplementary information on this specific point.

[42] *The economic impact of the Single Euro Payments Area*, Heiko Schmiedel, ECB Occasional paper series, No 71/August 2007.

Of the banks contacted, 15 classified the duplicate cost of running legacy and SEPA payment platforms as 'significant' or 'very significant'. Annual cost estimates of these banks were mostly in the range of EUR 5–10 million for system, development and process costs only. However, and more significantly, several banks stated that 'knock-on' cost effects for providing SEPA and legacy instruments simultaneously, such as duplicate product management, sales, client services and maintenance cost, could be much higher[43]. An extrapolation based on the deposit shares held by these banks in the euro area results in an estimated total excess cost of around EUR 500 million for purely system related duplication and a further EUR 1.5 billion if other cost components, as mentioned above, are included.

Of the four remaining banks or bank groups responding to the questionnaire, one outsourced its payment operations and therefore does not experience the duplication issue itself. Three banks or banking groups explicitly mentioned that they did not think duplicate costs were significant. Furthermore, two of the latter pointed out that SEPA could lead to higher variable cost for payment transactions. In conclusion, even if there were two dissenting opinions[44], almost 90 % of the sampled banks confirmed that setting an end-date would support the elimination of duplicate cost and increase planning visibility for the market as a whole.

3.3. The EU's right to act and justification

According to the subsidiarity principle, Community action should only be taken if the envisaged aims cannot be achieved by Member States alone. At this stage, national migration plans to SEPA exist in almost all Member States. While all these plans support SEPA migration, only a few aim for the systematic and full replacement of legacy payment instruments by a given deadline. In those national migration plans this deadline is a 'target date' determined by stakeholders rather than a mandatory end-date for SEPA migration set at Member States level. Moreover, the defined target dates are often contingent on other conditions. These plans therefore do not provide sufficient momentum for swift and comprehensive migration to SEPA, and are also not coordinated between Member States. Annex 6 provides an overview of migration target dates by Member State.

By its nature an integrated euro payments market requires a Community-wide approach as the underlying standards, rules and processes have to be consistent across all Member States. This supports the aim of Article 3 of the Treaty on the European Union stipulating an internal market and an economic and monetary union whose currency is the euro. Only a European approach, co-ordinated on the supply and demand side, can unlock the full potential of the network benefits. The alternative to a Community-wide approach would be a system of multilateral or bilateral agreements whose complexity and costs would be prohibitive as compared to legislation at European level. A possible intervention at EU level therefore complies with the subsidiarity principle.

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43 One particular bank mentioned that these costs could reach up to as much as EUR 100 million annually.

44 It is worth pointing out that the two banks with differing views both have substantial payment volumes in a single Member State, so that the potential standardisation and scale economy effects provided by SEPA are relatively small.

4. OBJECTIVES

4.1. General, specific, and operational policy objectives

According to Article 26 of the Treaty on the Functioning of the EU, the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties. In the context of the Community policy and in accordance with the problems identified in Chapter 3.2, the following policy objectives are identified:

General:

– To increase the efficiency and competitiveness of the EU payments market by realising economies of scale and operational synergies on both the supply and demand side through non-cash payments standardisation.

– To create an open and level playing field for competition in the payment service market at European level and facilitate downward price convergence for payment services in Europe.

– To establish a pan-European platform from which innovative and value-adding payment services and products can be launched.

Specific:

– To achieve full operational integration of the payments market in Europe for credit transfers and direct debits.

– To eliminate excess complexity and the duplicate cost resulting from the need to maintain multiple payment platforms on the supply and demand side.

Operational:

– To reduce the use of multi-lateral interchange fees per transaction for SEPA Direct Debits to the efficient level of zero, and to ensure that any fees for R-transactions support an efficient allocation of costs to those giving rise to them.

– To create transparency and market certainty regarding SEPA completion for credit transfers and direct debits and the phase-out of corresponding national legacy payment instruments.

The link between the problems described in Chapter 3.2 and the objectives identified above is presented in Annex 13.

4.2. Consistency of the objectives with other EU policies

The objectives outlined above are consistent with the policies and objectives of the European Commission. They improve the functioning of the European market for payment services through standardisation and provide a platform for the development of innovative financial services at EU level, such as e- and m-Payments, or e-Invoicing. Therefore, the accomplishment of the above objectives will significantly contribute to the achievement of the Internal Market which is one of the cornerstones of the EU. Furthermore, by facilitating financial transactions within the EU the objectives also support the move to a smarter economy, an integral part of the Europe 2020 strategy. An integrated payments market will also facilitate the participation of SMEs in the Single Market. SEPA, and especially its use as a platform for e-Invoicing by public administrations, can play an important role for delivering eGovernment services in Europe. The provision of payments and related value-added services by electronic as opposed to paper-based means, can also contribute directly and significantly to the development of a digital and green economy.

5. POLICY OPTIONS

In order to address the specific problem identified in Chapter 3.2.1 and to achieve the objectives described above, the problem of co-existence of SEPA instruments and national legacy payment instruments needs to be resolved. Three main scenarios can be envisioned:

(1) purely market driven migration to SEPA instruments and no intervention

(2) additional incentives to support and accelerate migration, particularly on demand side

(3) the establishment of a SEPA migration end-date by which national legacy payment instruments would need to be phased-out and replaced by SEPA instruments.

5.1. No intervention – baseline scenario

Under this scenario, SEPA migration would be left to market forces. No future deadlines for the replacement of legacy payments by SEPA payments would be defined.

5.2. Give new impetus to SEPA migration by additional incentives

In this scenario the SEPA migration process could be accelerated and reinforced by a series of measures primarily at the level of Member States given the specificity of current national payments markets. These measures would be tailored to stakeholders. No SEPA migration end-date would be set.

5.3. Setting a SEPA migration end-date

Various options exist:

5.3.1. Option 1 – Self-regulation

Under this option, market players on both the supply and demand side of the payments market, would agree on a common migration end-date for SEPA credit transfers and direct debits.

5.3.2. Option 2 – Non-binding Community instrument

Under this option, a Commission Communication, addressed to all stakeholders of the payments market, or a Commission Recommendation to Member States would call on the setting of a SEPA migration end-date.

5.3.3. Option 3 – Binding ECB instrument

Under this option, an ECB Regulation would establish a mandatory SEPA migration end-date for credit transfers and direct debits.

5.3.4. Option 4 – Binding Community instrument

Under this option, an EC Regulation or EC Directive would establish a mandatory SEPA migration end-date for credit transfers and direct debits.

6. ANALYSIS OF IMPACTS AND COMPARISON OF OPTIONS

The first section of this chapter (6.1) provides an analysis of possible measures that could be undertaken at the Member State level to accelerate and support SEPA migration without setting an end-date. The second part of this chapter (6.2) is dedicated to an in-depth analysis of the impact of the key policy option discussed in this document – the setting of a SEPA migration end-date. After a comparison (6.3) between this policy option and the baseline scenario discussed in the problem definition, possible instruments for setting an end-date are discussed (6.4). Subsequently, a number of implementing options for the definition of an end-date are analysed and recommendations made (6.5). Finally, the impact of a SEPA migration end-date on other policy areas is briefly discussed (6.6).

6.1. Impact of possible additional incentives for SEPA migration

The current, slow SEPA migration process could in principle be boosted by a series of measures undertaken by or aimed at different SEPA stakeholders. A major advantage of such an approach would be speed as lengthy legislative procedures are not required. This option is flexible and should help accelerate migration to pan-European payment instruments.

On the supply side, as discussed in Chapter 3.2.1, the technical capability to handle SEPA transactions already exists. From this perspective, the slow migration progress could be therefore addressed primarily by a full scale communication and awareness-raising campaign, addressed to the payment service users, and by active marketing of the SEPA payment offerings by EU banks. On the demand side, where SEPA investment and changeover processes are far less advanced, these measures could be complemented by some form of investment support for companies, for example relaxed amortisation rules, write-off of the cost of personnel training or even tax rebates. In addition, public authorities, as major users of payment services, could play a pioneering role in the migration processes, drive forward the migration process by actively adopting SEPA payment instruments and, consequently, promoting them among all other payment service users. Similarly, public authorities could also conduct a SEPA communication and awareness-raising campaign, reinforcing the marketing efforts of the supply side.

Flanking measures could be undertaken at EU level. A more prominent role for the EU Forum of national SEPA coordination committees and the newly established SEPA Council could be envisaged. For example, more media attention could be given to the pan-European scoreboard of SEPA migration by public authorities already prepared by the Commission. Possibly, this scoreboard could be extended to other categories of stakeholder. Coordination and cooperation could be intensified by increasing the frequency of meetings. The emphasis could be firmly placed on practical, ready-to-use solutions for SEPA migration supplemented by bilateral contacts and for example, the twinning of national projects. These tools would serve to improve cooperation and especially should strive to create peer pressure and disseminate best practices among national authorities.

Although such measures are clearly beneficial, there remains however a number of weaknesses to such an approach. First, as shown in the problem definition, a root cause of the slow migration progress is uncertainty about final SEPA completion. Any set of non-binding measures aimed at simply accelerating SEPA migration will not resolve this issue, as no obligation for migration is envisaged. Consequently, there is no guarantee that the full benefits promised by an integrated EU payments market (as discussed in 6.2) will be achieved in a reasonable time framework.

Secondly, to be really effective the envisaged incentives, in particular those aimed at companies, will likely have to be of a financial nature (e.g. more attractive pricing of SEPA payment instruments than of the legacy payments, financial incentives by the state to promote SEPA investment). For example, it does not seem clear that a brochure or a media campaign extolling the long-term benefits of SEPA will in the current climate be sufficient to galvanise companies into making major SEPA investments. Indeed, while it is recognised that considerable scope exists to market SEPA by public authorities in the way that the launch of the euro was, nevertheless, some limited communication is already taking place today. Furthermore, in the current economic climate and against a background of general public expenditure savings, it may be difficult for Member States to free such resources. Similarly, at a public policy level it may be difficult to justify such investments when ultimately SEPA should be beneficial to users in its own right.

Thirdly, while increased cooperation between the SEPA Council and the EU Forum beyond that which is already taking place today could be beneficial it is not clear that will radically alter the existing situation. The same consideration applies to increasing media attention on public authority migration.

Finally, most of these steps would have to be taken at national level. Consequently, the intensity of the media campaign and the degree of the financial inducements will vary by Member State. This does not provide the necessary certainty for an EU wide project with strong network effects.

In the final analysis, only a binding end-date will provide the certainty the market needs, communication and awareness measures remain important supporting activities for a legally mandated end-date, and unless an end-date exists, it is difficult to engage in clear communication.

For these reasons the option of communication and awareness measures including additional incentives is discarded at this stage and not analysed further.

6.2. Impact of setting a SEPA migration end-date

Ensuring the completion of SEPA migration for credit transfers and direct debits as described in the vision of SEPA (Annex 4) would be a major step towards the full integration of the European payment market. It would bring substantial benefits to the EU economy as a whole, including business, public bodies, and consumers. This was confirmed in a recent survey, undertaken among 350 professionals of the financial industry, in which 61 % of the respondents said that an integrated payments market is critical or very important for the future of Europe[45].

CapGemini estimated that the potential benefits through rapid migration from legacy payment instruments to SEPA instruments could reach EUR 123 billion over a six-year period (2007–2012) for the economy as a whole. This estimate was based on the assumption of a swift and comprehensive migration process on both the supply and demand sides.

According to the study, the estimated total benefit of EUR 123 billion results from an even higher gain on the demand side (EUR 175 billion) offset by a loss on the supply side (EUR 52 billion). Benefits on the demand side are driven by two factors: First, operational cost savings due to optimisation of payment operations, straight-through-processing, and simpler reconciliation of payment transactions. Second, a positive effect from the reduction of bank fees resulting from more intense competition. The negative effect on the supply side is caused by the flip side of lower bank fees, i.e. a loss of revenues for banks in addition to investment costs. This loss is however offset by operational cost savings and efficiency gains.

It is important to point out that this revenue reduction is primarily in relative terms. According to the study, in the absence of SEPA, banks payments revenue would increase from EUR 46 billion in 2006 to EUR 73 billion in 2012. With rapid and deep SEPA migration, bank revenue is forecast to reduce slightly to EUR 43 billion in 2012. However, at the same time through SEPA banks should achieve operational cost savings and efficiency gains of EUR 15 billion in 2012, so that in absolute terms, bank profitability for payments will still rise from EUR 10 billion in 2006 to EUR 21 billion in 2012.

Table 3: SEPA impacts, supply and demand side of the market: 2007-2012- rapid migration

Supply side (EUR billion) (rapid migration)	
Reduced revenues	-91
SEPA investment	-10
Operational savings	+49
Total effect supply	-52

Demand side (EUR billion) (rapid migration)	
Reduced prices	+91
SEPA investment	-17
Operational savings	+101
Total effect demand	+175

Source: CapGemini SEPA study

The study predicts that the benefits on the demand side would be spread across all stakeholders, i.e. consumers, SMEs, corporates, merchants and the public administrations.

45 Survey on the State of the European Payments Marketplace by the Financial Services Club in autumn 2009.

Table 4: Economic effects for stakeholders 2007-2012: Comparison of baseline and SEPA end-date scenario

Stakeholder	Baseline Scenario (EUR billion) (slow migration)	Setting SEPA end-date scenario (EUR billion) (rapid migration)
Payment service providers	-15	-52
Corporate businesses	-11	+51
SMEs	-11	+38
Merchants	- 3	+14
Public administrations	-6	+28
Consumers	+4	+46
Total effect	**-42**	**+123**

Source: CapGemini SEPA study

As emphasised earlier, these benefits materialise in a rapid migration scenario which can only be guaranteed by the setting of an end-date.

Moreover, the benefits mentioned above are just the direct payment effects of migrating to SEPA rapidly. The analysis by CapGemini showed also that even more substantial gains could be achieved if SEPA were used as a platform for e-invoicing (additional benefits of EUR 238 billion over a six-year period). Other value-added services building on the SEPA platform, such as pan-European e-Payments or m-Payments solutions could be expected to further contribute to the indirect benefits of SEPA, but no quantitative estimates are available. However, a study undertaken by the ECB[46] concludes that organisations which embrace new technological developments and provide innovative services are likely to gain most from SEPA.

Annex 14 describes in more qualitative terms how an end-date for SEPA credit transfers and direct debits accelerates benefits for stakeholders.

Requirements for migrating to SEPA

High-volume payment users, such as businesses and public administrations, need to change their payment systems and processes in order to migrate to SEPA. For example, migration to IBAN and BIC will require significant efforts in terms of changing master data in their IT system infrastructure. This requires investment and development costs (as quantified in the CapGemini estimates above), but also staff training in order to deal with the changes of systems and processes. On the other hand, high volume payment users have anyway to regularly update their systems which could soften the SEPA migration effect, provided account is taken of their 'natural investment cycle'.

System and process related investments would be more significant for PSPs but it has to be noted that most of these investments have already been taken. The majority of banks already adhere to the SCT (banks representing 90 % of the payment volume) and SDD schemes (banks representing 70 % of the payment volume). This point about SEPA investment having

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[46] Cf. footnote 28.

already been undertaken by PSPs was confirmed in the bank questionnaire mentioned previously. The competition effect of SEPA puts pressure on banking fees and revenues. The latter effect is conversely an upside for users of payment services. From a consumer and micro-business point of view, SEPA migration would mainly imply a change of habits, i.e. the use of IBAN (and BIC where necessary) instead of somewhat shorter national bank account numbers as used by most national legacy systems[47]. In these cases, banks could, however, help to soften the impact of the required change by developing user-friendly payment transaction templates and automatic, one-off conversion facilities for existing beneficiary data. Furthermore, the burden of using the somewhat longer IBAN format should not be exaggerated since in an increasingly electronic banking environment the user will only need to introduce an IBAN beneficiary account number once.

In relation to direct debits, costs will be incurred in the new handling arrangements for direct debits, in particular as regards the flow and management of the direct debit mandate issued by the debtor. In some Member States, this mandate is kept by the creditor or the creditor's bank, in other Member States it is kept by the debtor's bank. The current SEPA schemes are based on a creditor mandate flow; hence greater change is required mainly in countries where direct debits are handled through a debtor mandate flow.

The issue of possible mandate re-signature could arise in the context of migrating to pan-European schemes. All euro area Member States except one have, however, confirmed in the meantime that a legal solution has been found to avoid re-signature, an extremely burdensome and expensive operation. The authorities in this Member State are monitoring the situation closely and the Commission is hopeful that a solution to the issue will be found independently of – or in conjunction with – the setting of a migration end-date.

Annex 15 provides an analysis of costs and benefits for the supply and demand sides of the payments market when full and rapid SEPA migration is pursued. It also includes a calculation of potential SEPA benefits (as % of national GDP) at a Member State level (for the 16 Member States taken into account in the CapGemini study, representing 96 % of EU non-cash transaction volume). In this context, it is important to emphasise that the majority of indicated expenditure on the supply side has either already made or is in the course of being finalised this year (as the 1 November 2010 deadline for reachability for direct debit transactions, set in Regulation 924/2009 approaches). On the demand side (in practice, corporates and public administrations) investment progress is lagging (see reasons for slow migration, Chapter 3.2.1).

47 In some cases, PSPs ask for IBAN only and automatically add BIC for routing purposes. Some Member States have recently decided to apply the IBAN for national transactions, thus making the first step towards Europe-wide credit transfers.

6.3. Comparison of baseline scenario versus setting an end-date

On the basis of the above impact analysis, it is possible to compare the baseline scenario with that of setting a migration end-date.

Table 5: Comparison in terms of achieving the specific objectives

Objective/Option	Effectiveness		Efficiency
	Integration of the European payments market for credit transfers and direct debits	Elimination of duplicate cost and excess complexity of payment systems	
Base scenario 'do nothing'	0	0	0
Setting an end-date	+++	++	++

Contribution to objectives compared to the situation today.
+++ (Strong); ++ (Moderate); + (Weak) positive contribution
– – – (Strong); – – (Moderate); – (Weak) negative contribution; 0 neutral contribution

Table 6: Comparison in terms of stakeholder impact

Stakeholder	Benefits	Costs	Overall effect
Businesses	Improved cash/treasury management Greater liquidity Minimise number of payment accounts Reduced banking fees and internal payments admin costs Straight-through-processing Creation of secure platform for development of added value services linked to payment chain such as e-invoicing	Migration effort – new or upgraded payment systems and processes Staff training	+++
SMEs	Reduced banking fees and internal payments admin costs Straight-through-processing Creation of secure platform for development of added value services linked to payment chain such as e-invoicing	Migration effort – new or upgraded payment systems and processes Change of habits – IBAN (and BIC where necessary)	++
Public administrations	Reduced banking fees and internal payments admin costs Straight-through-processing Creation of secure platform for development of added value services linked to payment chain such as e-invoicing Increases the benefits of public tendering of payment services at European level, since offers could be better compared and inefficiencies caused by national payment formats should disappear	Migration effort – new or upgraded payment systems and processes Staff training	++
Consumers	Reduced banking fees/wider range of services due to increased competition Facilitation of professional and private mobility between Member States More innovative, user-friendly, secure, and convenient payment instruments	Change of habits – IBAN (and BIC where necessary)	++

Banks/PSPs	Scale economies/Operational savings New business opportunities as competition barriers reduced	Investments for SEPA payment platform Revenue impact for incumbents due to increased competition	+

Overall effect compared to the baseline scenario
+++ (Strong); ++ (Moderate); + (Weak) positive effect
– – – (Strong); – – (Moderate); – (Weak) negative effect; 0 neutral effect

Based on this comparison and the preceding quantitative analysis, it is recommended to pursue the option of setting an end-date.

6.4. Assessment of the instruments for setting an end-date

6.4.1. Self-regulation

Due to the variety and complexity of stakeholder interests, as well as a highly fragmented demand side, a concerted effort by both sides of the market is difficult to achieve. Furthermore, the approach of industry setting a target date has not proven to be realistic. When the EPC was established, the original timeline foresaw that a critical mass of credit transfers and direct debits would have migrated to SEPA instruments by the end of 2010. In January 2010, two years after its launch, the SCT rate has barely exceeded 6 % and SDD migration has yet to start. Therefore, current migration rates are very far away from the original target.

6.4.2. Non-binding Community instrument (Commission Communication or Recommendation)

A Communication to stakeholders in the payments market is unlikely to have a stronger effect than the self-regulation efforts which have already taken place during the last years (see above). While joint statements by the Commission and ECB, as well as institutional support from the European Parliament and ECOFIN, have called for a swift and comprehensive SEPA migration, the reality is that so far they do not seem to have had any significant effect on the stakeholders.

Similarly, a Commission Recommendation to Member States for the setting of SEPA migration end-dates at national level is very unlikely to achieve rapid and comprehensive migration in all Member States due to its non-binding character. Moreover, and as pointed out above in Chapter 3.3., a concerted and synchronised effort by all stakeholders across all Member States is crucial for reaping the full benefits of SEPA.

6.4.3. Binding ECB instrument

In the area of payments, the European Central Bank (ECB) has been entrusted with legislative competence[48]. The ECB's legislative competence is however limited when compared with that of the EU legislator and relates to ensuring effective and sound payment systems in order for them to operate smoothly. This implies, in addition to oversight and operational

48 Article 127(2) of the Treaty on the Functioning of the European Union and Article 22 of the Statute of the European System of Central Banks and of the European Central Bank.

competences, a focus on the technical aspects of payment systems, i.e. the payment transaction domain between PSPs, and does in principle not extend to the payment service user space. In addition, the geographical scope of the ECB's competence is generally limited to euro area Member States. Thus, any legislative action by the ECB regarding a binding migration end-date would be limited in comparison to Community legislation. It would only apply to euro area Member States and it would not drive harmonisation on the demand side of the payments market where most of the benefits of SEPA are expected as shown above. In this context, the main advantage of an ECB Regulation, namely the relatively straight forward adoption procedure by its Governing Council, plays a minor role only.

6.4.4. Binding Community instrument

As described above, there is a strong inverse correlation between the economic effects of SEPA and the duration of migration. In fact, the substantial benefits which can be achieved with a rapid migration can turn negative, if migration is protracted. A binding end-date for SEPA migration is therefore the only instrument to ensure that the benefits of SEPA really materialise.

The public consultation on SEPA showed broad support, among all stakeholder categories on the supply and demand side, for setting a deadline for the migration to SEPA credit transfers and direct debits (see Annex 3 for full consultation results). Some respondents on the demand side emphasised that an end-date should take into account certain user requirements (see Section 6.5.1. below). A number of advantages for an end-date were put forward. An end-date was considered necessary to accelerate SEPA migration which is currently too slow. Some respondents felt that this would provide necessary incentives to those who are currently reluctant to migrate. By accelerating migration, many underlined that such deadlines would allow reaping the full benefits of the SEPA project. This would avoid that multiple systems for credit transfers and direct debits were managed in parallel for too long a period of time. It would also provide certainty and allow for the appropriate planning of SEPA migration and the attribution of the necessary investment budgets.

Furthermore, many market players themselves call for the establishment of an end-date by regulation at European level, as evidenced in statements[49] by the EPC, different clearing and settlement infrastructures, and the European Association of Corporate Treasurers.

In general, the Commission has the choice between a Directive and a Regulation as a binding policy instrument. A Directive has the advantage of allowing for a more flexible approach, taking into account the specificities of national markets. A Regulation, on the other hand, allows achieving the highest level of harmonisation and standardisation in a shorter timeframe without the need for national transposition measures.

Setting an end-date for migration to pan-European credit transfers and direct debits requires standardisation at technical level and as complete a harmonisation as possible. This argues in favour of a Regulation rather than a Directive. Furthermore, due to the network character of

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[49] *Recommendation on an end-date for migration to SEPA schemes*, European Payments Council, 31.3.2009.
Public Statement of Infrastructures promoting the SEPA Progress, 14.4.2009.
Press Release: *European banks prepare for SEPA Direct Debit Services*, EBA Clearing, 6.4.2009.
Press Release: *Single Euro Payments Area: EACT favours setting an end-date for SEPA credit transfers*, European Association of Corporate Treasurers, 15.10.2008.

the payment industry most benefits of SEPA will only materialise once the transition to pan-European payment instruments is completed at domestic level in all EU Member States. A Directive approach with potentially differing national implementations has the risk of perpetuating the current payment market fragmentation. Finally, it would delay migration due to the time necessary for national transposition. It is therefore recommended to use the legal instrument of a Regulation for setting a SEPA migration end-date.

6.5. Assessing technical sub-options for the implementation of a SEPA migration end-date

The general case for establishing a SEPA migration end-date by binding legislation was made above. However, in order to be effective the conditions for an end-date need to be clearly defined at technical level. A number of sub-options for the end-date implementation present themselves in seven relevant areas. These areas are not mutually exclusive, meaning that one sub-option has to be chosen in each area. The seven relevant areas and the sub-options within each of these areas are described below.

6.5.1. Reference basis for pan-European credit transfers and direct debits

Three possible approaches have been identified for defining what exactly constitutes pan-European credit transfers and direct debits in the context of setting an end-date: An approach based on existing schemes, an approach based on standards, and an approach with general essential requirements.

<u>Sub-option 1 – approach based on existing schemes and rulebooks</u>

The use of the schemes developed by the EPC could be made mandatory as of a defined date for all relevant payment transactions. The SCT and SDD schemes have been launched on 28 January 2008 and 2 November 2009 respectively, and represent at this stage the only harmonised pan-European payment schemes for credit transfers and direct debits. These schemes are based on rulebooks and implementation guidelines for credit transfers and direct debits which contain a set of common rules, practices and standards. Reference of an end-date to these schemes would therefore provide a clearly defined technical basis and would avoid parallel streams of 'multi-harmonisation'.

This approach would however imply the regulatory endorsement of payment schemes which have been developed under self-regulation by the banking industry as represented in the EPC. First, this de facto creates a private monopoly situation, privileging the EPC schemes and thereby preventing potential competition and innovation. This seems undesirable on general public policy grounds and raises the very important and currently still open question as to how sufficient transparency and adequate stakeholder representation (in particular from the demand side) can be guaranteed during the future development process of the SCT and SDD schemes. Payment service users, and especially consumers, have remonstrated about not being able to actively participate in the development of EPC schemes and that inadequate regard was given to their views and preferences[50]. In particular, in relation to the SDD, they highlighted the point that, although the CMF[51] direct debit model is the majority approach in

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[50] See for example Press Release *SEPA: Broad range of stakeholders beginning to see huge problems*, European Consumers' Organisation (BEUC), PR/001/2010, 23.2.2010, http://www.beuc.org/Content/Default.asp?PageID=835.

[51] Creditor Mandate Flow, i.e. the direct debit mandate is held by the Creditor or Creditor Bank.

the EU and is the model used by the SDD, nevertheless, direct debit products in some Member States are based on the DMF[52] model. Consumers expressed a clear preference for this kind of approach and hence they argued the debtor bank should be given a much greater role in direct debit collection[53]. As regards credit transfers, payment users (especially businesses) criticised the current SCT scheme for not providing sufficiently long remittance information fields in comparison to the existing legacy credit transfers in some Member States.

Furthermore, as the EPC rulebooks underlying the SCT and SDD are subject to continuous development, legal adjustment mechanisms would have to be defined to take into account future rulebook changes. In conclusion, fixing an approach for an end-date based on existing schemes hinders potential competition and innovation and limits the incentives for scheme improvements.

Given these handicaps, the option of reference to an existing scheme is discarded.

<u>Sub-option 2 – approach based on key existing standards</u>

Technical standardisation is a cornerstone for the integration of networks, such as the European payments market. On this basis, the use of standards developed by international or European standardisation bodies could be mandatory as of a defined date for all relevant transactions. In the payment context, these would be the international bank account numbers (IBAN), bank identifier codes (BIC), and a financial services messaging standard (ISO 20022). The implementation of these standards by all PSPs is therefore an essential prerequisite for full inter-operability throughout the EU. This would at the same time leave greater room for the development and innovation of payment instruments in comparison to an approach which is based on a specific industry-developed scheme (Sub-option 1).

However, complete integration of the European payments market for credits transfers and direct debits goes beyond technical requirements. For example, some Member States (Italy, Greece, Luxembourg, Malta, Slovenia, Bulgaria, Latvia, Lithuania and Romania) already use the IBAN account identifier for domestic credit transfers and direct debits. Nevertheless, national payment schemes still exist in these countries. Standards alone therefore do not fully address the problem of fragmentation and do not lead to a truly integrated payments market. Beyond standards, common business rules and practices also need to be defined to ensure the benefits of SEPA in terms of harmonised user experience, straight-through-processing etc. Relying on technical standards alone therefore leaves too much leeway for inconsistent implementations of SEPA credit transfers and direct debits.

The public consultation on SEPA strongly confirmed this point. A vast majority of respondents (more than three out of four)[54] emphasised that an end-date should go beyond standards and should take into account scheme characteristics.

For these reasons, the option of exclusively referring to existing standards is discarded.

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52 Debtor Mandate Flow, i.e. the direct debit mandate is held by the Debtor Bank.

53 This point has been taken up by the European Commission and the European Central Bank which have sent a joint letter to the EPC, dated 10.3.2010. The EPC has responded positively, by approving the implementation of the possibility for a more explicit debtor bank role (i.e. the new mandate check option).

54 No weighting applied. Individual respondents may have significantly different levels of representativeness for the payments market.

Sub-option 3 – approach based on 'general essential requirements'

Rather than referring to specific schemes or to standards alone, a number of essential requirements could be defined. Under this option, as of a defined date all relevant transactions would have to comply with these essential requirements. The requirements would unambiguously define the characteristics needed to be respected by inter-operable pan-European payment schemes without mandating the EPC schemes on a de jure basis. For inter-operability reasons, the essential requirements would however make reference to the use of the specific existing international and non-proprietary standards mentioned under Sub-option 2.

The essential requirements approach thereby provides a way to define pan-European payment instruments while avoiding a regulatory endorsement of one specific scheme which was developed by the industry. For this purpose, the essential requirements would be defined in such a way that they allow for the application of the currently existing EPC schemes but do not restrict flexibility and innovation. In contrast to a scheme-based reference, this option would retain the possibility for new competing credit transfer or direct debit schemes to emerge under the condition that they are compliant with the essential requirements. Similarly, the essential requirements approach could easily address certain user requirements which are not or only insufficiently met by the existing schemes as mentioned above. It would thus achieve the goal of rapid and comprehensive migration to pan-European payment instruments while remaining open and neutral towards potential new developments and improvements in the payments market. Although the essential requirements approach would be a novel regulatory concept in the field of payments, this approach has been applied in other fields by the Commission, for example in the case of the New Approach Directives[55] or the recently adopted Regulation on the phasing-out of non-efficient light bulbs.[56]

The possible approaches to a migration end-date were also discussed in the last meeting of the Payments Committee on 10 March 2010. While there was full agreement that an end-date solely based on standards was not sufficient, six out of eight Member States representatives making an intervention in this context favoured the 'essential requirements' approach over a scheme-based approach.

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55 Currently there are 22 New Approach Directives. For further information see http://www.newapproach.org/ and http://ec.europa.eu/enterprise/policies/single-market-goods/regulatory-policies-common-rules-for-products/new-approach/index_en.htm.

56 Commission Regulation (EC) No 244/2009 of 18.3.2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for non-directional household lamps.

Table 7: Reference basis

Sub-option	Effectiveness in terms of relevant criteria			Efficiency
	Inter-operability	Potential for competition	Potential for innovation	
0. Baseline scenario ('do nothing')	0	0	0	0
1. EPC schemes and rulebooks	+++	– –	–	0
2. Existing standards	+	++	++	+
3. General essential requirements	+++	++	++	++

Overall effect compared to the baseline scenario
+++ (Strong); ++ (Moderate); + (Weak) positive effect
– – – (Strong); – – (Moderate); – (Weak) negative effect; 0 neutral effect

The recommended option would therefore be to go forward on the basis of general essential requirements. Annex 16 provides a first, tentative overview of the general essential requirements, which could be part of an EU regulation.

6.5.2. Transaction domain

SEPA credit transfers and direct debits could be implemented in two different transaction domains.

<u>Sub-option 1</u> – Implementation in the PSP-to-PSP transaction space only.

<u>Sub-option 2</u> – Implementation across the whole payment transaction space end-to-end, i.e. for the customer-to-PSP and PSP-to-customer domain on top of the PSP-to-PSP domain.

Defining a SEPA end-date for the supply side only would limit the complexity of the required migration effort. Only one side of the market, notably the one with a significantly lower number of market participants in relative terms, would have to comply with the regulatory requirements. Furthermore, PSPs are already more advanced in terms of actual migration to SEPA instruments than payment users.

A one-sided approach has however substantial downsides. While it limits the cost of SEPA migration mostly to one side of the market, it does the same with the potential benefits of SEPA. As stated above, the benefits of SEPA significantly outweigh the cost and investments of SEPA, in particular for the demand side of the market.

Important features of pan-European credit transfers and direct debits, such as real straight-through-processing, and a common launching platform for providing innovative payment services to users, only materialise if harmonisation takes place across the full transaction domain. Only in such a scenario will multi-national businesses be able to standardise payment transactions sufficiently in order set up efficient shared services centres and payment factories. Similarly, cross-border-competition of PSPs will intensify once pan-European standardisation extends to the payment user level.

A restriction of a SEPA migration end-date to PSPs only would therefore directly impact the potential economic benefits of payment market integration. As pointed out in the beginning of this chapter, the CapGemini study estimates the total gain of rapid SEPA migration on the demand side of the payments market at EUR 175 billion. Of this benefit, EUR 91 billion relate to lower bank fees due to more intense competition on the supply side which may partially still materialise if an end-date would only be set in the inter-bank space. However, an estimated EUR 84 billion of operational savings (net effect after investments) on the demand side depends entirely on payment market integration extending beyond the inter-bank space. If an end-date were to be set in the inter-bank space only these savings would not occur. This would reduce the overall SEPA benefits for the market as a whole (supply and demand side) from EUR 123 billion to EUR 39 billion, cutting it by more than two thirds.

Moreover, limiting the mandatory use of SEPA instruments to the PSP-to-PSP space could require a payment format conversion between users of payments and their PSPs which in turn increases complexity and could lead to increased processing effort and to a higher number of erroneous payment transactions.

Finally, the public consultation on SEPA showed that a large majority of responding stakeholders (more than two out of three)[57] favour an end-to-end approach, covering the full transaction domain from payment user to payment user.

Table 8: Transaction domain

Sub-option	Effectiveness in terms of relevant criteria			Efficiency
	Inter-operability	Degree of market integration	Potential for innovation	
0. Baseline scenario ('do nothing')	0	0	0	0
1. PSP-to-PSP	+	+	+	++
2. End-to-end	+++	+++	++	+

It is therefore recommended to go forward with Sub-option 2, i.e. an approach where the requirements defined by an end-date would apply throughout the whole transaction domain.

6.5.3. Product specification

This Impact Assessment covers credit transfers and direct debits. Card payments and cheques are out of scope of this analysis. In many Member States however, there are certain legacy payment instruments which could be considered credit transfers or direct debits but which have very specific functionalities, often due to historical or legal reasons. The transaction volume of such products is usually marginal; they could therefore be classified as niche products.

For the purposes of this analysis, niche products are defined as credit transfer or direct debit products which (1) Member States define as 'difficult to migrate' from a technical point of view and which (2) at national level cumulatively account for less than 10 % of the total volume of credit transfers and direct debits respectively. The rationale underlying these two criteria is twofold. First, a maximum threshold of 10 % would mean that at least 90 % of existing national payment instruments would migrate to the corresponding SEPA instrument and hence that critical mass would be achieved with the required volumes for operating efficiency and economies of scale. Secondly, from a subsidiarity perspective, Member States are most familiar with their own payment instruments and therefore best placed to determine

[57] No weighting applied. Individual respondents may have significantly different levels of representativeness for the payments market.

whether migration is sufficiently difficult to justify derogation from the general obligation to migrate. Low-volume niche instruments are usually tailored for specific user groups or to provide specific functionalities. In Spain, for example, there are credit transfers not using account numbers, or specific pension transfers requiring additional tax and financial information to be exchanged between the involved PSPs. The estimated volume share of these transfers is 1.3 % and 0.12 % respectively of all credit transfers undertaken in Spain. As regards direct debits, the so-called 'TIP' and 'Télérèglements' enable debtors in France to validate the amount of each transaction before it can be processed by their creditors, for example when paying taxes. Estimated volume shares are 4.3 % and 0.4 % respectively of all direct debits undertaken at national level.

The definition of an end-date needs to specify whether such niche products shall also migrate to pan-European credit transfers and direct debits. Three possible options present themselves: an all-inclusive approach, a permanent exception approach, and a staggered approach.

<u>Sub-option 1 – all inclusive:</u> all legacy products falling under the definition of a credit transfer or direct debit have to be phased out as of a defined date.

An all inclusive approach would achieve the maximum degree of harmonisation for credit transfers and direct debits in the EU. Ultimately, this would allow the complete elimination of national legacy payment platforms. It would therefore maximise the economies of scale for both sides of the market and minimise the complexity of the European payment landscape. However, the immediate elimination of these niche products for the sake of an all inclusive SEPA migration might require significant resources, often for relatively marginal payment transaction volumes. Migration of 'regular' credit transfers and direct debits would risk being slowed down if it is to coincide with that of niche products.

For the above reasons, an all inclusive migration approach is discarded.

<u>Sub-option 2 – permanent exception for niche products</u>: niche products as defined above are exempted of an end-date.

Some of the existing legacy niche products provide specific functionalities which are not available under the currently existing pan-European credit transfer and direct debits schemes. In many cases these functionalities concern a particular minority category of payment users which for historic or legal reasons only exists in one or a few given Member States. An 'exception' approach would ensure that these payment instruments could continue to be used beyond a SEPA migration end-date. On the downside, such an approach may require that national payment platforms need to be infinitely maintained in certain Member States. This could significantly reduce economies of scale and cause duplicate cost for the running of multiple payment platforms on both the supply and demand side of the market.

For the above reasons, a permanent 'exception' approach is discarded.

<u>Sub-option 3 – staggered approach</u>: niche products are exempted for a transitional period after which all legacy products have to be phased out.

A staggered approach would allow an appropriate balancing of the respective advantages and disadvantages of the two options described above. An additional sunset period for niche products would help both sides of the market to focus on 'regular' credit transfer and direct debit migration first, thereby generating the majority of the potential SEPA benefits to be reaped in a shorter time frame. The duration of this sunset period should be sufficiently long, to minimise the impact of the migration on consumers, in particular when these niche products are competitively-priced and easy to use. The additional sunset period could also be used to adjust existing SEPA schemes according to the characteristics of the most relevant of these niche products, so that they could be used within the framework of a harmonised payments market.

Table 9: Product specification

Sub-option	**Effectiveness in terms of relevant criteria**			**Efficiency**
	Degree of market integration	Meeting payment user requirements	Speed of migration process	
0. Baseline scenario ('do nothing')	0	0	0	0
1. All-inclusive	+++	–	+	0
2. Permanent exception	+	++	+++	+
3. Staggered approach	+++	++	++	++

On this basis, it is recommended to go forward with a staggered approach for niche products with a transitional period in the range of 3–5 years.

6.5.4. Member States scope

Actual progress of SEPA migration varies between Member States. By definition, SEPA applies to payments in euro only and therefore euro area Member States are generally more advanced in terms of migration. This raises the question whether concrete end-dates should be set individually for each Member State and whether the same end-date approach should be taken in the euro and in the non-euro area. Options are as follows:

Sub-option 1 – individual end-dates by Member State

Sub-option 2 – one common end-date for the EU

Sub-option 3 – two end-dates; one for the euro area, and one for the non-euro area

As discussed in the problem definition and further elaborated in Annex 9, target dates for replacing national credit transfers and direct debits with pan-European payment instruments have so far only been set in three Member States. Four countries established a deadline for one of the instruments and three defined 'critical mass' criteria which should be fulfilled before a target data is to be set. Most importantly however, in nine Member States, including three euro area countries, no target dates have been considered at all and in eight Member States the subject is still under discussions.

This indicates that the option of setting individual end-dates at national level is not a viable solution for a quick and full migration to SCT and SDD. It is also very challenging from a technical point of view. Setting different end-dates for EU Member States would be costly and difficult to manage for banks, multi-national corporates, and for those SMEs and consumers active in cross-border transactions. Since general SEPA migration would be dependent upon the slowest Member State, it would increase the cost of SEPA migration for the EU economy and diminish the benefits promised by the quick integration of the payments market in the Community.

An integrated European payments market requires a network of inter-operable PSPs, ensuring full reachability of all payment accounts throughout the EU for pan-European credit transfers and direct debits. Only such an environment provides a level playing field across Member States and allows companies to develop a true European approach for their payments. A common end-date would lend a stronger political impact to a project of such importance, providing more visibility to the integration of European payments market from a communication point of view. Furthermore, the option of a common end-date set by regulation was strongly supported by the stakeholders in the public consultation on SEPA.

One common end-date for the whole EU would ultimately maximise the benefits for the EU economy and all stakeholders. However, in the case of an early end-date it would require a major and swift migration effort in non-euro area Member States. Alternatively, a later common end-date for the whole EU could be set in order to accommodate the lower migration priority for non-euro area Member States. Euro payments represent relatively small volumes within non-euro area countries as well as in comparison with the total volumes of euro payments in the EU. Broad estimates by the ECB on the basis of a sample of non-euro area Member States suggest that euro payment volume shares in these countries are around 2 % of all payments. Therefore, a quick and full migration of euro payments in non-euro Member States would not be essential for the success of SEPA. The resources required for rapid and full migration in non-euro Member States would not be proportional with the achieved benefits.

Moreover, the approach of a deferred application in non-euro Member States has previously been used in the payments policy area. For example, Article 8 of Regulation (EC) No 924/2009 on cross-border payments in the Community grants a temporary derogation period for non-euro Member States in terms of reachability for direct debit transactions in euro. This derogation period has been fixed at the lesser of (a) 4 years or (b) 1 year after accession to the euro currency if applicable. A comparable approach could be followed for a SEPA migration end-date.

Table 10: Member States scope

Sub-option	**Effectiveness in terms of relevant criteria**			**Efficiency**
	Degree of market integration	Speed of migration process	Proportionality	
0. Baseline scenario ('do nothing')	0	0	0	0
1. Individual end-dates	+	+	++	0
2. One common EU end-date	+++	+	+	+
3. Two end-dates; one for euro area and one for non-euro area	++	++	+++	++

It is therefore recommended to pursue the sub-option with a common end-date for the euro area and a later common end-date for the non-euro area. Under the option of common end-dates, individual Member States would in principle still be free to establish an earlier end-date for migration. This would allow for a quicker migration in those Member States whose migration is already well advanced.

6.5.5. *Deadlines*

Different approaches could be taken into account when setting (a) concrete end-date(s). There could be separate end-dates for credit transfers and direct debits or there could be a common end-date. Furthermore, (an) end-date(s) could be set in the short term (one year after entry into force of the Regulation at the latest), the mid term (two years after entry into force of the Regulation at the latest), or the long term (three years after entry into force of the Regulation). This results in the following timing options:

Sub-option 1 – common end-date for credit transfers and direct debit

Sub-option 2 – separate end-dates for credit transfers and direct debit

A common end-date for both payment instruments has the advantages of clearer and simpler communication to payment service users. This approach would also encourage those PSPs and users which have not yet started migration to move to SEPA instruments in a single step. All necessary system and process changes could be implemented at the same time, thereby avoiding a protracted period of running parallel payment systems causing duplicate cost.

On the other hand, an approach of two separate deadlines also has a number of important advantages. First of all, SEPA credit transfers and SEPA direct debits do not have the same level of maturity, since the existing SDD scheme was launched almost two years later than the SCT scheme. Furthermore, a direct debit is a more complex instrument than a credit transfer. Migration to SEPA direct debits consequently requires more resources than migration to SEPA credit transfers. This point has been confirmed, both on the supply and demand sides, by replies to the questionnaires sent out by the Commission services. The estimated financial resources required for direct debit migration exceed that for credit transfers by a factor of between 2 and 12, depending on industry sector. One common end-date would therefore entail the risk of delaying migration to SCT more than necessary. It would also penalise all market players which have already undertaken migration efforts to SCT.

Secondly, separate end-dates would allow for a concentration of migration efforts on one product only and better management of each migration. Migration to the SDD scheme would fully build on the requirements which have been fulfilled through migration to the SCT – the use of IBAN (and BIC) and of the ISO 20022 standards, as discussed earlier. The SCT and the SDD are two instruments which are clearly distinct in the mind of payment users. In particular, two separate deadlines were also supported by the majority of stakeholders[58] in the public consultation on SEPA. It is therefore recommended to set individual deadlines for credit transfers and direct debits respectively.

[58] Cf. footnote 47.

Table 11: Deadlines

Sub-option	Effectiveness in terms of relevant criteria			Efficiency
	Degree of market integration	Speed of migration process	Proportionality	
0. Baseline scenario ('do nothing')	0	0	0	0
1. Common deadline	+++	+	+	+
2. Separate deadlines	++	+++	++	++

In terms of concrete deadlines, several factors should be taken into account. From an EU economy perspective, quick and full migration is a priority, as it reduces transition costs and increases benefits for all involved stakeholders as shown in the CapGemini study. On the other hand, SEPA migration requires the changing of payment systems and processes within an organisation. The usual IT investment cycle for PSPs, payment processors, businesses and public administration is around 3–5 years. This implies that, at any point in time, market participants will on average make their next investment 1.5 to 2.5 years later.

Another factor which has to be taken into account when setting migration deadlines is the length of the procedure for adoption of a migration end-date EU Regulation. Based on past experience, it is reasonable to assume that one year as a minimum will pass between adoption of the Commission proposal and the entry into force of an adopted Regulation[59]. In fact a longer period e.g. 18 months seems more likely.

In this context, a short term end-date for SCT migration (e.g. one year after entry into force of the Regulation) and a slightly longer, mid-term approach for setting an end-date for SDD migration (e.g. two years after the entry into force of the Regulation) is the recommended option. However, the publication of a formal Commission proposal would in itself provide the market with a strong signal and incentive to start or accelerate the migration efforts. All relevant stakeholders will gain the necessary certainty about the irrevocability and deadlines of the migration process at this point of time. In practical terms the delay in adoption means that the stakeholders will have approximately 30 months to prepare their migration to SCT and 42 months for SDD. Given that SCT migration is, as discussed above, less problematic for both supply and demand side of the market, this should provide stakeholders with ample time to migrate to SCT and adequately prepare and concentrate on SDD migration. At the same time it would appear unnecessary and counterproductive to prolong SCT and SDD migration beyond the time-lines discussed above. Longer migration deadlines could, in theory, allow some reduction of the financial and organisational impact of the changeover, as the necessary investments and organisational changes could be budgeted and spread over additional years. It is, however, much more likely that those investments will simply be postponed until the end of the migration process (see investment cycles), while the benefits of quick, full migration will be lost.

The short term end-date approach found also most support in the public consultation on SEPA. A majority of respondents favoured a quick end-date for SCT migration, which could be achieved by end-2012 in their opinion. As regards the SDD, a mid term approach seemed

59 For example, for the cross-border Payments Regulation (924/2009) this time period was 13 months, and for the PSD (2007/64/EC) it was two years.

to be the most accepted possibility, i.e. to allow for a delay of one additional year in launching the SDD scheme.

It is therefore recommended to pursue the sub-option of separate end-dates, with more specifically a short term deadline for credit transfers (for instance, one year after entry into force of the Regulation at the latest) and a mid term deadline (for instance, two years after entry into force of the Regulation at the latest) for direct debits.

6.5.6. Cross-border opening of bank accounts for pan-European credit transfers and direct debits

As discussed above, establishing a SEPA migration end-date aims at creating a fully integrated payments market with effective competition for credit transfers and direct debits. An end-date establishing the necessary technical standardisation will greatly facilitate this objective, but needs to be complemented by a flanking measure to fully address market integration. Therefore, as from the end-date for SEPA migration, discriminatory requirements based on nationality or place of residence to open a payment account should be prohibited. It is acknowledged that in some cases there may be reasons for differences in the conditions of cross-border payment account access. However, these differences must be directly justified by objective criteria. Such an approach has also been taken in the Services Directive[60].

There is a strong economic logic in placing cross-border opening of bank accounts within the context of an EU legislative proposal facilitating SEPA. On the one hand, SEPA and the passporting rights for payment institutions established by the Payment Services Directive are designed to strengthen competition and allow payment institutions (in addition to existing credit and electronic money institutions) to provide payment services on a cross-border basis. However, if the reality is that a European citizen is unable to benefit from this possibility, specifically established by the European co-legislators, because of restrictive commercial practices which unnecessarily foreclose cross-border access to a payment account, it is entirely logical that this deficiency be remedied by the European co-legislators within a legislative proposal establishing an end-date for SEPA migration.

The prohibition of discrimination on grounds of nationality and residence by cross-border bank account opening also passes subsidiarity, proportionality and necessity tests. In terms of necessity and proportionality the prohibition is clearly connected to the right of establishment and the cross-border mobility of the EU citizens (Art. 49 of the Treaty on the Functioning of the EU) and the operation of the internal market (Art. 3 of the Treaty on the Functioning of the EU). At the same time, due to the clearly cross-border dimension of this issue, the EU legislator is better suited to address it effectively at the EU level than national law.

There are two main options:

Sub-option 1 – Continuation of current practice.

Sub-option 2 – Prohibit customer refusal on the grounds of nationality or place of residence for the opening of a payment account as of the end-date for migration to SCT.

As described in the problem definition, payment user mobility in terms of being able to freely choose a PSP for making credit transfers and direct debits is often restricted or simply

60 See Article 20(2) of the Directive on services in the internal market (2006/123/EC).

impossible in a cross-border environment. The current practice of many PSPs limits the opening of a payment account only to those citizens resident in or having the same nationality as the Member State of the PSP. Full freedom of choice of PSPs and hence true competition in payment services at European level will only be complete once customer refusal is prohibited on the grounds of place of residence or nationality. Continuing the current practice (Sub-option 1) would restrict effective competition and hinder the attainment of the full economic benefits of SEPA. In the CapGemini study, downward price convergence caused by more intense competition was estimated to provide a benefit of EUR 91 billion to payment service users over six years. Competitive pressure on bank fees basically stems from two drivers to market integration: increased cross-border mobility firstly by PSPs and secondly by customers. The CapGemini study did not quantify separately how much of the overall economic gain from more competition specifically relates to the second effect, i.e. the possibility for customers to access payment services on a cross-border basis as compared to PSP market entry. On general grounds, it seems reasonable to assume that the first aspect (PSP mobility) produces the greater economic benefits in quantitative terms. Nevertheless, in social and political terms, and with the new emphasis on the social dimension in the Lisbon Treaty and the political wish to make the Single Market work for the benefit of European citizens, it is important not to neglect the second aspect (customer mobility). This is in line with the spirit of the Internal Market and necessary for full competition.

In contrast, Sub-option 2 would ensure that the full benefits of SEPA in terms of increased competition could be reaped, particularly for online payment accounts. Other than the competitive effects, the impact of Sub-option 2 on PSPs is expected to be limited as they can continue to refuse to open payment accounts on other grounds than the customer's residence or nationality, in line with the principle of commercial freedom. The reasons which are most often mentioned as justifications by PSPs declining the opening of payment accounts by non-residents relate to preventing fraud and money laundering, and to not having access to credit histories of non-residents.

In this context however, two aspects have to be noted. First, differences in the conditions of cross-border payment account access would continue to be allowed provided these differences are directly justified by objective criteria as mentioned above. For example, PSPs could decide not to allow overdrafts for non-resident account holders. Second, the abolition of the current general discrimination would not affect a PSP's capability to either conduct customer due diligence upon the opening of an account on a case-by-case basis as regards preventive measures against potential money laundering or the financing of terrorism. In addition, as the burden of proof is placed on the consumer, the costs of such additional checks would largely be on the consumer side. PSPs could obviously also continue to monitor customer transactions through payment accounts on an ongoing basis.

The expected impact of this measure on the integration of the EU payments market should be positive, as consumers from both euro and (in particular) non euro-area Member States will have the opportunity to benefit from more comprehensive or better priced payment services on a cross-border basis. This will in turn place an indirect pressure on the PSPs to develop and improve their SEPA payments services. It will also work as an incentive towards dismantling artificial fragmentation of payments markets along the national lines.

Table 12: Cross-border bank account opening

Sub-option	Effectiveness in terms of relevant criteria			Efficiency
	Degree of market integration	Potential for competition	Meeting user requirements	
1. Baseline scenario ('do nothing')	0	0	0	0
2. Non-discriminatory opening of bank accounts	+	+	+++	+

Given the benefits for the competitive environment mentioned above and the limited impact on PSPs, it is therefore recommended to pursue Sub-option 2, namely the abolition of discriminatory treatment of non-residents and non-nationals as regards the opening of payment accounts, as from the end-date for migration to SEPA credit transfers.

6.5.7. Clarity on the long term business model for pan-European direct debits

As discussed in the problem definition the perceived lack of clarity on the long term business model is one of the factors holding up migration to pan-European direct debits.

It turned out impossible to solve this perceived lack of clarity by the development by the industry of a system entailing MIFs *per transaction* and/or MIFs for R-transactions that could be assessed positively under the EU competition rules. During most of 2008, a dialogue took place with the banking industry (represented by the European Payment Council or EPC) on the need of/ the justification of a Multilateral Interchange Fee (MIF) *per transaction* under EU competition rules, as identified in an analysis of SEPA undertaken by DG Competition and the National Competition Authorities in 2007. As a result, it was signalled to the industry that it had not succeeded in providing the necessary justifications for the proposed MIF. Further to this, to encourage migration to SDD a transitional regime for national and cross border MIFs per transaction for SDD was introduced in Regulation 924/2009. The Joint Statement of the ECB and Commission of 24 March 2009 clarified that MIFs per transaction were not acceptable but opened the door to the exploration of a MIF for R transactions compatible with competition rules. However, the industry was unable to agree on the mandate and composition of a working group of the EPC dedicated to this at the EPC Plenary of 24 June 2009. The EPC decided however that EPC scheme's participants can agree on bilateral agreements. In the framework of the SEPA Roadmap[61], the industry was again encouraged to undertake "the design and implementation of long-term business models for SDD in line with competition rules", however, this did not bring a change in the EPC's position.

On the basis of the relevant facts (as set out in detail in Annex 4), three possible approaches have been identified for providing clarity on a business model. One is an approach under which MIFs per transaction[62] will continue to be analysed under competition rules ('current practice') (1). A second approach would be to impose a MIF or set a cap for MIFs per transaction and/or for R-transactions at a certain level as of an end date for migration to SDD (2). The third approach would prohibit per transaction MIFs (or measures of an equivalent object of effect), whereas R-transaction MIFs could be allowed under certain conditions (3).

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61 Communication from the Commission, *Completing SEPA: a Roadmap for 2009-2012*, COM(2009) 471, 10.9.2009.

62 'R-transactions' are direct debit transactions that cannot be properly executed or are being reclaimed by a payment service provider because the payment order is rejected, refused, returned or reversed

Sub-option 1 – Continuation of current practice (absence of regulatory intervention)

If current practice will be continued, MIFs for direct debit transactions will continue to be analysed only under competition rules, without prejudice to their being banned or reduced as a result. This would mean in particular that proceedings at national and/or European level could be launched or would be pursued when they are ongoing, on the basis in particular of the guidance already provided. Further guidance on the compatibility of interchange fees for pan-European direct debits with competition rules could also be provided.

MIFs per transaction are currently in place only in a handful of Member States.[63] In addition, MIFs for R-transactions (i.e. direct debit transactions that cannot be properly executed or are being reclaimed by a payment service provider – depending of the country considered, R-transactions cover between 0.1 % and 3 % of all transactions) are in place in five Member States, three of which also have a MIF per transaction in place[64].

Country	MIF per transaction	R-transaction MIFs
France	12 cents	72 cents
Spain	3 cents	0[65]
Italy	25 cents	0
Portugal	23 cents	n.a.
Belgium	2 cents	n.a.
Germany	0	300 cents
Austria	0	500 cents

However, it has to be underlined that business models with MIFs for R-transactions which have been set up as a financing mechanism tend to have equivalent effects to MIFs per transaction business models[66]. It could be expected that in the absence of regulatory intervention, the current business models based on MIFs would be gradually eliminated/phased out as a result of national and/or European proceedings, although at an uneven pace, and with the risk of an unlevel playing field. This elimination would seem unlikely to upset the fundamental equilibrium of the banking sector. In all the Member States with MIFs (per transaction and for R transactions) in place, the accruing revenues are significant in absolute value but represent less than 1 % of total retail banking revenues. Also, when compared to the fees charged directly to consumers or companies for direct debits in addition to the MIFs that are charged to the payee's banks for direct debits, the MIFs represent only about 12 %.[67]

63 At present the direct debit schemes of only 6 EU Member States - 25% of the market - operate with a *per transaction* MIF. Currently, *per transaction* MIFs exist in Belgium (2 cents *per transaction*), Spain (less than 3 cents), Sweden (11 cents), France (12 cents), Portugal (23 cents), and Italy (25 cents) with a clear trend towards a decreasing or zero MIF.

64 R-transaction MIFs of varying sizes exist in Austria, France, Germany, Portugal. In Spain, such R-transaction MIFs only apply to non STP direct debit transactions.

65 R-transaction MIFs are only of application for manual transactions.

66 See the Commission Working Document on the *Applicability of Article 81 of the EC Treaty to multilateral interbank-payments in SEPA Direct Debit*, published 3.11.2009, p. 11.

67 On the basis of World Retail Banking Report figures, retail banking revenues for 2006 amounted to EUR 61 billion for France, 60 for Germany 56 for Italy, 33 for Spain, 12 for Austria, and 9 for Portugal. Multiplying the number of direct debit transactions per Member State (ECB Blue Book figures) by the MIFs amounts, MIF revenues can then be calculated. These MIF revenues are overestimated as for instance they include 'on-us' transactions, or transactions between accounts at the same bank. Even in

In terms of impact, consumers, companies and public authorities can continue to rely on competition law enforcement to ensure that per transaction MIFs are no longer applied for the reasons mentioned above. In this case it needs however to be taken into account that competition rules are applied on a case-by-case basis. This means that groups of payment services providers may chose to 'sail close to the wind' and apply systems that raise attractive revenues but risk ultimately being prohibited by competition authorities or national courts. Consequently, the SEPA direct debit market may consist of a variety of different systems with different levels of sustainability under the competition rules.

The same applies if (more) guidance is provided under the competition rules: the fact that groups of players may decide to 'test' the sustainability of certain arrangements under competition rules, even taking into account the guidance, may substantially delay the true achievement of a level playing field. The clarification on the compatibility of business models for SDD through the Regulation is necessary for its effective rolling out as some Communities have made this a prerequisite for their investing in SDD[68]. Failing this, the emergence of different groups of banks agreeing in different markets on different MIFs, which may or (most probably will) not be in line with competition rules and the guidance already provided, is likely. This would result in market fragmentation and uneven and incomplete migration to SDD.

The direct debit market is a market with network effects. Only a mass transition to one or a small number of comprehensive new systems will generate true efficiencies. The existence of a variety of financing arrangements, some of which are under threat of being prohibited, may be a factor unnecessarily jeopardizing effective migration. It has to be underlined in this respect that whilst both at the public consultation on the working document of November 2009 and at the Hearing of 17 November, stakeholders concentrated their comments on the substance of the issue (i.e. on whether interchange fees should be allowed and if so under which conditions), it can be inferred from the repeated calls for further guidance, from some banks and banking communities, but also from users, that a status quo situation would not be satisfactory from this perspective.

Sub-option 2 – Imposing a MIF/Setting a cap for MIFs per transaction at a certain level as of an end-date for migration to SDD

Under sub-option 2, a positive MIF per transaction would be imposed (a MIF for R-transactions with the aim of financing the whole system, although not a sub-option per se, would have similar restrictive effects as the ones of a positive MIF per transaction, hence the analysis below would apply mutatis mutandis). Alternatively, a cap would be defined, allowing MIFs per transaction provided they stay below a certain maximum fee ('capping MIFs'). In terms of impact, regulating MIFs in such ways would address the perceived lack of clarity on a long term business model.

However, imposing a MIF for all transactions would go against the practice applied regarding the majority of current domestic direct debit transactions and not seem to be called for by a large number of payment service providers. The views from stakeholders, especially

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this case, the MIF revenues in all these markets constitute less than 0.7 % of the retail banking revenues. According to the Capgemini study referred to in footnote 76, direct banking fee income for payments was estimated at approximately EUR 46 billion in 2006, of which approximately EUR 8 billion would come from direct debit. Total MIF revenues would then amount to about 12 % of direct banking fee income for direct debit.

68 Cf. footnote 21.

consumers and corporates, as expressed in the public consultation on the working document of November 2009 and at the Hearing of 17 November are generally supportive of a ban on MIF per transaction. However, specific banking communities currently benefiting from high MIFs per transaction firmly supported their being maintained – and therefore opposed a binding legal prohibition. Also, in the absence of intervention, the current business models based on MIFs would be gradually eliminated/phased out, although at an uneven pace, and with the risk of an unlevel playing field. Moreover, imposing a MIF would have the same anticompetitive effects as those identified for per transaction MIFs based on multi-lateral arrangements, i.e. impose a system of hidden fees that cannot be influenced by consumers and companies and thereby prevents them from making choices that lead to an efficient use of direct debits.

Imposing a maximum MIF per transaction through a cap would be likely to also have the effect of imposing a MIF; in practice no bank relying on MIFs will have an interest to impose a lower MIF than its competitors, especially since these lower MIFs will not be visible for its own clients, the consumers. As this bank has no direct contractual relationship with the payee's bank, it is in a position to request the maximum MIF. Therefore, due to the two sided nature of this market, a capped MIF is likely to become the rule. The negative impact identified above for imposing a MIF would be similar for capping MIFs.

As concluded in the Commission Working Document of November 2009 – which articulates the principles underpinning the relevant provisions of Regulation 924/2009 and the Joint Statement of the European Commission and the ECB on the compatibility of business model for SDD with competition rules – the current market information therefore does not suggest that a per-transaction MIF would be necessary or indispensible for the efficient use of direct debit schemes[69]. On top of the reasons mentioned above, the option of setting a cap for MIFs per transaction and/or R-transaction at a certain level would therefore be contrary to the guidance already provided by the Commission and the ECB on this topic.

Sub-option 3 – Prohibiting per transaction MIFs (and measures of equivalent object or effect) and allowing R-transactions MIFs only under certain conditions as of an end-date for migration to SDD

Under Sub-option 3, MIFs per transaction would be prohibited for national and cross-border direct debits after the end date for migration to SDD. As to R-transactions (transactions which cannot be executed correctly or which have been reclaimed by a payment service provider), MIFs could be allowed, if indispensable for the efficient handling of R-transactions and if appropriately designed. In particular, these fees should be strictly and unequivocally cost-based, and should not exceed the actual costs of the most efficient comparable operator. Failing this, incentives for providers to improve the efficiency of their operations would be limited, as they could align fully or at least partly – in the case of average costs being used – on the costs of less efficient providers. These MIFs should be aimed at incentivizing an efficient use of the scheme and not at financing its operation.

Their level should not exceed the actual costs of an R-transaction to avoid that scheme participants are overcharged relative to the actual costs they have imposed on the system by causing an R-transaction. Appropriate measures to avoid R-transactions should therefore be implemented, for instance with respect to controls before settlement and pre-checks of

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69 Commission Working Document, p. 9.

mandates, to avoid in particular R-transactions due to lack of sufficient funds on the account and absence of mandates.

Moreover, a collective arrangement on MIFs for R-transactions should efficiently allocate costs to the entity responsible for the R-transaction. Also, it should not allow for payment service users to be charged additionally for the costs covered already by the interchange fees. Besides, in order to preserve a level playing field between payment providers across the Internal Market, other forms of interchange fees for R-transactions (bilateral and unilateral) should also be included in the scope of this provision. These should also be cost-based and aim at an efficient allocation of costs to the entity having caused the R-transactions.

Such conditions for R-transaction MIFs would constrain the parties to the collective agreement on R-transaction MIFs on the basis of objective criteria. The implementation of these would be subject to the monitoring and sanctions of the authorities in charge of monitoring the implementation of this provision at national and European level and to the relevant courts and judicial bodies. Therefore, these would contribute to the creation of a level playing field through a regulation setting clear rules for financing models for SDD compatible with competition rules, hence avoiding circumvention of the prohibition of MIFs per transaction e.g. through MIFs for R transactions financing the whole system. Allowing MIFs for R-transactions in such context would not cause appreciable negative effects on competition or fragmentation of approach, whilst responding to the call from parts of the industry for more 'clarity'. This approach can be compared to the one taken by the Commission in other network industries: faced with enduring inconsistencies in the telecoms sector the Commission adopted a Recommendation on fixed and mobile termination rates recommending a specific cost methodology to be applied by telecommunication regulators. "Ex ante" regulatory tools can sometimes provide an efficient solution compared to traditional "ex post" antitrust enforcement action – which can always be activated if needed.

Regarding the impact of the conditions related to R-transaction MIFs, they would be aimed at ensuring an efficient and smooth functioning of the direct debit scheme, in particular through the incentives on banks and payment service providers to improve the functioning of their systems as they would no longer be in a position to pass on their inefficiencies or irrelevant costs to other players through MIFs. This should lead to a level playing field between market players and to an improvement of the competitive conditions under which they operate. It can be expected that these benefits will be passed on to users, corporates and consumers respectively.

Similarly, the efficient allocation of costs to the party responsible for the R-transaction is expected to impact positively the use of direct debit and of payment instruments to the benefit of society as it will incentivise parties to the direct debit transactions to minimise the occurrence of R-transactions as they will be directly faced with the costs attributable to them. This should enhance the transparency of costs. It would mean for instance that the costs for R-transactions due to lack of funds on the payer's account cannot be passed on by the payer bank to the payee bank, which has an inflationary impact on the fee the payer will have to face as a result from the payee, as compared to direct reconciliation between the payer and the payee. Due to the asymmetry of negotiating power between the consumer and his payment service provider and for consumer protection reasons, it is necessary to set a principle of no double charging i.e. payment service users should not be charged additionally for the costs covered by the interchange fees to avoid such behaviour from the payer banks.

It is to be expected that under Sub-option 3, companies' move to SEPA DD will be facilitated as the uncertainties regarding business models and the charging structure resulting from these would be clarified. As a result, they could enjoy stronger bargaining power and the possibility to seek tender offers to integrate their payments on a cross-border basis. This will result in economies of scale and a reduction in the processing costs. As regards the overall impact of prohibiting MIFs per transaction and allowing MIFs for R-transactions, since pan-European direct debit transactions are or will be carried out through (an) entirely new system(s) that will replace a variety of presently existing domestic systems the likely impact of prohibiting per transaction MIFs and conditionally allowing MIFs for R-transactions can only be assessed on the basis of certain qualitative and quantitative impacts which can be expected. A more elaborate qualitative assessment is contained in Section 1 of Annex 11a.

First, if hidden fees are abolished payment service providers will compete with each other in a transparent way. Therefore, even if payers' banks will start charging consumers directly (through an increase in direct debit usage fees or an increase in current account fees) they will do so under conditions of competition.

Also, lower costs to creditor companies should in principle lead to lower bills and/or higher discounts to consumers.

With an integrated European market there will also be more choice for consumers and companies.

As already stated payees should in principle be able to make good any increase in fees for payers by direct rebates and discounts to stimulate the use of direct debit and so ensure an appropriate take-up.

Also, in the framework of the SEPA direct debit system the mandate given by the payer will no longer be managed by the payer's bank but by the payee (the creditor company) itself. This is likely to have a downward impact on costs presently incurred by payers' banks as SEPA DD thus shifts a share of these from the banking side to the payee.

Sometimes, the fear is expressed that abolishing MIFs per transaction in the countries where they are still in place would lead to a lower use of direct debits as a payment instrument by consumers and companies. However, this is not corroborated by figures on the present number of transactions in 'MIF' – countries and 'no-MIF-countries': These do not suggest the existence of a clear link between the number of transactions in a country and the existence of a MIF (see Section 2 of Annex 11a).

It is sometimes argued that if banks lose their revenues from interchange fees they will move to charging these fees directly to consumers. However, currently available public data do not show a correlation between the existence of (high) MIFs and (no or low) consumers' fees for using direct debit. In the vast majority of countries where high MIFs are in place, banks still tend to charge consumers directly on top of collecting these MIFs. Similarly, in many countries with no MIFs, consumers are not charged (see Section 3 of Annex 11a).

When consumer fees for using direct debit are low (or no fees are of application), it could be the case that on the consumer side the costs of direct debit transactions are cross subsidized by revenues from current account fees. It has sometimes been argued that this cross subsidisation, resulting in comparatively higher current account fees, could be a possible counterbalance for the existence of low or no consumer fees, in particular in no MIF countries. However, there does not appear to be a clear link, either, between the existence (and level) of a MIF per transaction and general bank account fees for consumers (that may include consumer fees for direct debit transactions) (see Section 4 of Annex 11a).

A distinction might therefore need to be made between the short term and the long term impact related to the currently hidden charges to consumers being made more transparent to them. In the short term, it could be expected that (some) banks, especially in the Member States where high MIFs per transaction – or measures of equivalent object or effect – are currently in place, may not take into consideration the competitive constraints created by higher transparency and choice for consumers, which might result in increased charges to consumers. The absolute impact is however expected to be a transitional one as competition between payment service providers would keep these increases in check. In terms of the relative impact on payers (as compared to other payment instruments), competition between payment instruments would also act as an incentive for merchants to provide payers with rebates more than compensating for the (possible) increase in consumer charges, to encourage them to use direct debit instead of alternative payment methods.

In this context, the Commission intends to monitor the effects of SEPA on fees to see whether payment services providers are using SEPA as a pretext to increase fees – perhaps even to levels that are higher than what they received through interchange fees before.

It has to be noted that sub-option 3 would not result in an increased administrative burden or in the creation of additional administrative costs to payment service providers as no formal notification, information or reporting requirements to public authorities regarding the business model chosen are being introduced. In case a business model based on interchange fees for R-transactions is envisaged, the resulting obligations and costs would be similar to the ones resulting from self-assessment of compliance with competition rules (the 'status quo' or baseline scenario). The requirement that interchange fees applied for R-transactions shall be aimed at efficiently allocating costs to the party that has caused the R-transaction does not necessarily mean that in such a system, in case the error is made by one of the banks involved, there should always the possibility of inter bank fees going in two directions, dependent on which bank made the error. Provided they take into account the key requirement that the arrangement must be aimed at efficiently allocating costs to the party causing the R-transaction the parties have the possibility to arrange the system in the way they deem suitable. Obviously, in such a system if an error is made by the payer or the payer's bank the payee bank should not pay an interchange fee to the payer bank. However, the allocation of costs for errors may also be realised by practical solutions, taking into account the functioning of the arrangement, the possibilities for parties to obtain compensation for damages and the stream of costs and revenues between the parties.

In the framework of the public consultation on the working document of November 2009 and at the Hearing of 17 November, most stakeholders, and in particular consumers and companies supported the approach in terms of a ban on MIF per transaction and of allowing interchange fees for R-transactions under certain conditions. However, in particular the banking communities currently benefiting from high MIFs per transaction took a firm stance in favour of MIFs per transaction being maintained. In addition, the approach in favour of a MIF for 'R' or error transactions provided certain conditions were met was supported by some banks. In this context, the fact that it was difficult to determine who was responsible for an error was underlined in particular.

On the basis of this analysis (the details of which are set out in Annex 14a), there is indeed no evidence that MIFs per transaction (or measures of equivalent object of effect) are likely to achieve the goals of efficient use of direct debit payments. Alternative business models to MIF per transaction, in which customers are directly confronted with costs, such as for

R-transactions, are likely to lead to more efficiencies in terms of the means of payment used and their costs to companies, consumers and the economy a whole.

Table 13: Legal certainty on the business model

Sub-option	Effectiveness in terms of relevant criteria			Efficiency
	Legal certainty/clarity	Potential for competition/ level playing field	Speed of migration process	
1. Continuation of current practice	0	0	0	0
2. Impose a MIF/ Set capped MIFs	+	–	–	–
3. Partial prohibition of MIFs / Regulation	++	++	++	++

On the basis of this analysis it can be concluded that any form of competition enforcement action or competition guidance is likely to provide less certainty to the market and a more fragmented level playing field than a binding community instrument. It is therefore recommended to go forward with the legal instrument of the regulation, that would at the same time provide clarity on MIFs and other interchange fees prohibiting per transaction fees (and measures of equivalent object or effect) and allowing R-transaction MIFs under certain conditions.

6.5.8. Overview of the chosen sub-options

Table 13: Summary of the chosen sub-options

Area	Chosen sub-option	Remarks
1. Reference basis for setting an end-date	Essential requirements approach	Existing international standards + defined requirements for pan-European payment instruments
2. Transaction domain	End-to-end	Full SEPA migration: customer-to-PSP, PSP-to-PSP and PSP-to-customer domain
3. Product specification	Staggered approach	Niche products to be phased out after 3–5 years
4. Member State scope	Two end-dates; one for euro area and one for non-euro area	Deferred migration for non-euro area Member States
5. Deadlines for migration	Separate deadlines for SCT and SDD migration	SCT: one year after entry into force SDD: two years after entry into force
6. Cross-border account opening	Non-discriminatory access	No payment account opening refusal on grounds of nationality or place of residence
7. MIFs	Providing certainty on per transaction MIFs and R-transaction MIFs in a Regulation	Prohibition of per transaction MIFs Allowing R-transaction MIFs only under certain conditions

6.6. Other impacts

The recommended option of setting a SEPA migration end-date does not have any perceived impacts on European Community resources. Nonetheless, it should be noted that once the SEPA migration is achieved the Community institutions should benefit from the same, positive effects as indicated for relevant stakeholders, notably public administrations, in the Chapter 6.3 of this document.

As already described above, only limited social impacts are expected in Member States. On the positive side, an integrated payments market will help to increase the competitiveness of small and large businesses across the EU. A potentially more affordable and broader choice of basic payment services through different payment initiation channels could also positively contribute to financial inclusion of under-banked consumers. On the other side, the economic benefits from centralisation and automation of payments under SEPA may lead to consolidation, especially on the payment processing side.

As regards the environment, only positive impacts are expected. A harmonised payments market will further increase the attractiveness of electronic payment instruments in comparison to paper-based instruments. In the same vein, SEPA can help to dematerialise processes which are directly linked to payments, such as e-Invoicing. Numerous studies show that replacing paper invoices by electronic invoices reduces paper consumption (thereby saving trees) and also leads to a more favourable carbon footprint by eliminating the required transport of paper documents. For example, the Department of Environmental Strategies Research at the Royal Institute of Technology in Sweden estimates that the total effect of replacing paper with electronic invoices would lead to annual carbon reductions corresponding to 39 000 to 41 000 tons of CO_2-equivalents in Sweden alone, depending on the electricity mix used.[70] If this number is extrapolated based on invoice volumes, the carbon reduction potential for the EU would be around 1 million tons of CO_2-equivalents annually.

An impact on third countries is possible, if the proposed binding law is extended to the three European Economic Area countries which are not members of the EU. The decision on such extension would need to be taken by the EEA Joint Committee and would require an amendment to the Annex XII of EEA Agreement. In such a case the same impacts as described in Chapter 6 would affect the relevant stakeholders in Iceland, Liechtenstein and Norway. No direct impact on other countries is to be expected. While banks in two other countries participate voluntarily in SEPA under its current geographic scope (i.e. Switzerland and Monaco) these sovereign states have freedom to choose whether or not to incorporate the proposed provisions into their national law.

[70] *Effects of a total change from paper invoicing to electronic invoicing in Sweden*, Å Moberg, C Borggren, G Finnveden & S Tyskeng, KTH, 2008, http://www.infra.kth.se/fms/pdf/Moberg%20et%20al%202008.pdf.

7. CONCLUSIONS

This impact analysis concludes that only a rapid and comprehensive migration to SEPA credit transfers and direct debits will generate the full benefits of an integrated payments market. Market forces and self regulatory efforts have proven not to be sufficient to drive concerted migration to SEPA on both the supply and demand side. In this context, it is strongly recommended to set mandatory end-dates for both payment instruments by binding legislation at EU level.

A general essential requirements approach is considered to be most appropriate for defining pan-European payment instruments. Furthermore, these essential requirements should apply to the whole payment service transaction domain, from payment user to payment user through their respective PSPs. This ensures the reaping of the full potential SEPA benefits which are primarily generated on the demand side of the market. An end-date should apply to 'regular' credit transfers and direct debits in a first stage, but so-called legacy niche products should also be phased out after a transitional period, whose duration should be sufficiently long to minimise the impact on users. The impact analysis also shows that separate end-dates should be set for credit transfers and direct debits respectively. Based on the necessary migration efforts and the usual investment cycles for payment systems, an end-date for credit transfers should be defined in the short term (e.g. one year after entry into force of the Regulation) and for direct debits in the mid-term (e.g. two years after entry into force of the Regulation). These end-dates should apply to euro area Member States, while non-euro area Member States would be granted a longer transitional period, based on their limited euro payment transaction volumes. Discriminatory treatment of non-residents and non-nationals as regards the opening of payment accounts in other Member States should also be abolished. In order to facilitate the implementation of SEPA DD clarity should be provided on the multilateral interchange fees.

8. MONITORING AND EVALUATION

The proposed Regulation would enter into force 20 days after its publication in the Official Journal of the European Union. However, the operative part of the Regulation would clearly depend on the concrete end-date chosen. In accordance with the implementing options, discussed in Chapter 6.5, different end-dates for migration to pan-European payment instruments will apply for euro area and non-euro area Member States as well as for credit transfers and direct debits.

An evaluation is planned three years after the entry into force of the SDD end-date for euro area Member States. Thus, the forthcoming legislation will be subject to a complete evaluation in order to assess, among other things, how effective and efficient it has been in terms of achieving the objectives presented in this impact assessment and to decide whether new measures or amendments are needed. The evaluation report will also examine whether an end-date for migration to SEPA card payments is feasible and necessary.

The SCT and SDD migration indicators, published monthly by the ECB, are very good candidates for measuring migration during the evaluation period. The yearly reports on price changes of bank account services in relation to SEPA developments, published by the Commission, are another potential source of data which could be helpful in assessing the impact on pricing achieved through establishing an end-date for SEPA migration.

9. GLOSSARY

'credit transfer' means a payment service for crediting a payee's payment account, where a payment transaction or a series of payment transactions is initiated by the payer on the basis of the consent given to his payment service provider

'direct debit' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent

'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order

'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction

'payment account' means an account held in the name of one or more payment service users which is used for the execution of payment transactions

'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions

'payment scheme' means a set of rules, practices and standards, which is separated from any infrastructure or payment system that supports its operation between the scheme participants across the EU

'payment service provider' means any of the categories referred to in Article 1(1) of Directive 2007/64/EC and the legal and natural persons referred to in Article 26 of that Directive, but excludes those institutions listed in Article 2 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions benefiting from a Member State waiver exercised under Article 2(3) of Directive 2007/64/EC

'payment service user' means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both

'payment transaction' means an act, initiated by the payer or by the payee of transferring funds, irrespective of any underlying obligations between the payer and the payee

'payment order' means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction

'R-transactions' means direct debit transactions that cannot be properly executed or are being reclaimed by a payment service provider because the payment order is rejected, refused, returned or reversed

'interchange fee' means a fee paid between the payment service providers of the payer and of the payee for each direct debit transaction

'multilateral interchange fee' means an interchange fee which is subject to a collective agreement between payment service providers

'IBAN' means an international payment account number identifier, which uniquely identifies an individual account with a unique payment service provider in a Member State, the elements of which are specified by ISO 13616, set by the International Organization for Standardisation (ISO)

'BIC' means a code that unambiguously identifies a payment service provider, the elements of which are specified by ISO 13616, set by the International Organization for Standardisation (ISO)

'ISO 20022' means a standardised process for electronic finance messages set by the International Organization for Standardisation (ISO)

10. ANNEXES

Annex 1: Key statements by European Institutions and stakeholders supporting the establishment of an end-date for SEPA migration

To encourage migration to SEPA the European institutions have all endorsed the idea of a migration end-date in order to fully and rapidly reap the benefits of SEPA.

European Parliament resolution on the implementation of the Single Euro Payments Area (SEPA) of 12 March 2009

The European Parliament (1) Emphasises its continued support for the creation of SEPA, which is subject to effective competition and where there is no distinction between cross-border and national payments in euro (2) Calls on the Commission to set a clear, appropriate and binding end-date, which date should not be later than 31 December 2012, for migrating to SEPA products, after which date all payments in euro would have to be made using the SEPA standards…"

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B6-2009-0111+0+DOC+XML+V0//EN

European Parliament resolution on the implementation of the Single Euro Payments Area (SEPA) of 10 March 2010

The European Parliament…regrets that hardly any progress has been made as regards the issues mentioned in Parliament's resolution on the implementation of SEPA of 12 March 2009 since its adoption; …and calls again on the Commission to set a clear, appropriate and binding end-date, which should be no later than 31 December 2012, for migrating to SEPA instruments, after which all payments in euros must be made using the SEPA standards;"

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0057+0+DOC+XML+V0//EN

Economic and Financial Affairs Council conclusions on SEPA, press release, 2981st Council meeting of 2 December 2009

"The Council (…) CONSIDERS that establishing definitive end-dates for SDD and SCT migration would provide the clarity and the incentive needed by the market, ensuring that the substantial benefits of SEPA are rapidly achieved and that the high costs of running both legacy and SEPA products in parallel can be eliminated (…) INVITES therefore the Commission, in collaboration with the ECB and in close cooperation with all actors concerned, to carry out a thorough assessment of whether legislation is needed to set binding end-dates for SDD and SCT and to come up with a legislative proposal should this assessment confirm the need for binding end-dates."

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/111670.pdf

Communication of the European Commission on completing SEPA: a Roadmap for 2009-2012 of 10 September 2009

The Communication identifies six priority areas for action, where greater involvement of all relevant actors is required in order to achieve the full implementation of the SEPA. The first priority is the rapid migration to SEPA instruments. In particular, priority 1C calls for an agreement on the migration end-date:

"As for the euro changeover, fixing an end-date for SCT and SDD migration provides certainty and predictability and acts as a strong incentive for both industry and users to speed-up migration. Migration should be as short as possible to minimise the costs of running national and SEPA systems in parallel, but as long as necessary to allow customers and banks to change their processes smoothly. This requires a sound analysis of the impact of setting, as well as the negative effects of not setting, an end-date."

http://ec.europa.eu/internal_market/payments/docs/sepa/com_2009_471_en.pdf

Eurosystem's 6th Progress Report on the Single Euro Payments Area, November 2008

"Setting a realistic but ambitious end-date for the migration to SCT and SDD is a necessary step in order to reap the benefits of SEPA…"

http://www.ecb.int/pub/pdf/other/singleeuropaymentsarea200811en.pdf

The idea of a binding SEPA migration end-date has also been supported by the vast majority of the Member States in the Payments Committee in its meeting of 10 March 2010. Representatives from 17 Member States were in favour of a binding end-date while two Member States clearly and a third partly preferred a market-driven approach.

The need for an end-date was however not only raised at political level. Stakeholders of the payments market have repeatedly called for end-date to be set by regulation at EU level. For example, in its recommendations of 31 March 2009, the EPC plenary stated that "…mandating the end-date requires EU regulation…". A public statement by payment infrastructures on 14 April 2009 stated that "…not only a self-regulated migration date but also a regulated one, based on consideration of market feedback, could be a way forward". Furthermore, in its meeting of 23 March 2010, a great majority in the Payment Systems Market Expert Group (PSMEG), composed of payment market stakeholders, expressed the need for a binding SEPA migration end-date.

Annex 1a: Key statements by European Institutions requesting clarification for Multilateral Interchange Fee (MIF) for SEPA Direct Debit

The main 'calls for clarity' were the following:

– A demand for guidance/clarification regarding the compatibility of collective agreements relative to MIFs with competition rules was made by the European Parliament for both payment instruments in the **Gianni Pittella report** on Competition Sector Inquiry on retail banking, adopted on 4 June 2008[71].

– The **ECOFIN Council** conclusions adopted on 10 February 2009 "UNDERLINE(D) the need for clarity on long term pricing issues" for SDD.

– As regards *SDD,* calls for guidance to be provided by the European Commission were also reflected in the **Regulation 924/2009** on cross border payments adopted on September 2009. Recital 9 of the Regulation states that: "within the framework of a sustained dialogue with the banking industry and on the basis of contributions made by the relevant market actors, (the Commission) **intends to** provide, as a matter of urgency, guidance as to the objective and measurable criteria for the compatibility of such multilateral inter-bank remuneration, which could include among others multilateral interchange fees, with competition rules and the community regulatory framework."

– This Recital has to be read in conjunction with the last paragraph of the **Joint statement of the European Commission and the ECB of 24 March 2009 on SDD**: "Provided that the Commission will have received the necessary contributions by relevant market actors, the Commission expects to be in a position to provide further guidance by November 2009, which would clarify the eventual case-by-case assessment under Article 81(3) EC Treaty."

– On 10 March 2010, i.e. after the entry into force of Regulation 924/2009 the **European Parliament** adopted a **Resolution**, inter alia calling for guidance on Multilateral Interchange Fees (MIFs) for SDD to be provided by the European Commission. In §7 of the Resolution, it "calls on the Commission to clarify definitely and no later than 30 September 2010, based on the outcome of the respective consultation, including all the stakeholders, the issue of a harmonised

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[71] European Parliament resolution of 5 June 2008 on Competition: Sector inquiry on retail banking:
§28. Notes that the Commission and many national competition authorities have stated on numerous occasions that multilateral interchange fees (MIFs) are not prohibited per se under Article 81 of the EC Treaty; notes, nevertheless, that the Commission recently focused on the compatibility of a MIF system with Community competition law; recommends that the Commission propose clear guidelines and indications to correct market imperfections; reminds the Commission of the importance of legal certainty for market participants as well as new market entrants to develop and innovate their services;
§29. Believes in a strong need for better clarification concerning the methodology and rules for the management of MIFs for card payments and for the mechanism to calculate interbanking fees for automated teller machines and non-card payments; recalls that direct debit and credit transfer schemes, such as those under the SEPA, support services that are jointly offered by two payment service providers and jointly requested by two consumers, creating economic benefits thanks to so-called network effects; suggests that the Commission establish and communicate to all stakeholders the criteria for the definition by market operators of a the methodology to be used to calculate all MIFs, to which the Commission should have regard in order to ensure a real level playing field and the enforcement of all competition rules.

long-term economic model for SEPA direct debits […]; insists on the need for this model to be developed in close cooperation between the payment sector and the Commission and in line with EC competition law and the Community regulatory framework."

– On October 2010, the European Central Bank published its 7th progress report[72] regarding SEPA. It indicates "that for the time being, the intricate debate on MIF has been resolved by Regulation (EC) No 924/2009 on cross-border payments" but only till 1 November 2012. Therefore "the financial industry expects the European Commission, …, to provide guidance on the long-term charging principle for SDD in order to avoid concerns over competition."

[72] http://www.ecb.int/pub/pdf/other/singleeuropaymentsarea201010en.pdf

Annex 2: Chronology of key consultations and events regarding the establishment of an end-date for SEPA migration

Date	Item
February 2006	Commission publishes consultative paper on SEPA Next Steps[73]
April 2006	A tender for SEPA study is launched
May 2006	Joint Statement from the European Commission and the European Central Bank *A common vision for the Single Euro Payments Area (SEPA)*
April 2007	First agreement reached on Directive 2007/64/EC on payment services in the internal market (PSD) in first reading in Parliament (the Directive is published in December 2007)
August 2007	The ECB publishes a study on the economic impact of the Single euro area[74]
November 2007	A feedback statement to the consultative paper on SEPA Next Steps is published[75]
January 2008	SEPA: Implementation and deployment, launch of SEPA Credit Transfer Scheme on 28 January 2008
January 2008	A study on benefits, opportunities and costs of migration to SEPA is published (Cap Gemini study)[76]
November 2008	Eurosystem's 6th Progress Report on SEPA, calling for a realistic but ambitious end-date for the migration to SCT and SDD[77]
April 2009	Parliament adopts Regulation (EC) No 924/2009 on cross-border payments in the Community in first reading (Regulation is published in October 2009)
June-August 2009	Public consultation on setting an end-date for migration to the SEPA payment instruments[78]
September 2009	A roadmap for completion of the SEPA is published by the Commission. It envisages a possibility of setting a legislative end-date for migration to SEPA instruments[79]
September 2009	The Steering Group on the Impact Assessment is established
October 2009-March 2010	Meetings of Payments Committee, Payment Systems Market Expert Group and of EU Forum of national SEPA committees – end-date for SEPA migration discussed
November 2009	Deadline for implementation of Directive 2007/64/EC and Regulation 924/2009 enter into force in the Member States
November 2009	SEPA: Implementation and deployment, launch of SEPA Direct Debit Scheme on 2 November 2009
November–December 2009	Survey of the European Business Test Panel on SEPA migration[80]
December 2009–February 2010	Questionnaire sent to selected banks on the costs of running in parallel of national and pan-European payment systems
December 2009–March 2010	Meetings of the Steering Group on the Impact Assessment

73 http://ec.europa.eu/internal_market/payments/docs/sepa/sepa-2006_02_13_en.pdf
74 http://www.ecb.int/pub/pdf/scpops/ecbocp71.pdf
75 http://ec.europa.eu/internal_market/payments/docs/sepa/feedback_statement-2007_11_30_en.pdf
76 http://ec.europa.eu/internal_market/payments/docs/sepa/sepa-capgemini_study-final_report_en.pdf
77 http://www.ecb.int/pub/pdf/other/singleeuropaymentsarea200811en.pdf
78 http://ec.europa.eu/internal_market/payments/docs/sepa/feedback_migration-2009_09_29_en.pdf
79 http://ec.europa.eu/internal_market/payments/docs/sepa/com_2009_471_en.pdf
80 http://ec.europa.eu/yourvoice/ebtp/consultations/sepa3/statistics_en.pdf

Annex 3: Summary of the public consultation on SEPA migration (September 2009)

1. INTRODUCTION

On 8 June 2009, the European Commission published a consultation document on possible end-date(s) for SEPA migration and invited stakeholders to comment by 3 August 2009. The purpose of this consultation was to collect stakeholders' views on this important issue and to identify general trends for the possible way forward.

This document is a summary of the contributions received. Its objective is to present an overview of the opinions expressed and arguments presented by stakeholders in their contributions. The views expressed in this document do not prejudge in any respect the policy orientation which may be developed by the Commission at a later stage.

2. METHODOLOGY

This report is structured as the consultation document. 11 specific sets of issues were raised.

Not all contributors answered all questions. For instance, those who did not support the idea of setting some deadlines for SEPA migration in Question 1 in particular did not answer the other questions. Some more technical questions were sometimes not answered by respondents.

The responses to the individual questions will not be presented in quantitative terms. A qualitative analysis of the responses and of the main arguments put forward will be presented.

3. NUMBER OF RESPONSES

136 written responses have been received by the Commission[81]. A number of answers were however identical, as well as identical to their trade association. We have therefore chosen to treat these answers as one answer each time, for the sake of the analysis. In total, 105 written responses have thus been analysed.

More than a third of the responses came from payment service providers, as well as technical providers, such as card processors or IT providers. On the demand side of the payment market, businesses represented a quarter of the responses (among which four came from organisations representing SMEs). A few responses also came from consumer organisations and individual consumers. Merchants did not respond much. Finance ministries, central banks and other public sector entities accounted for one fifth of the answers. Several of the national SEPA coordination committees in charge of implementing the SEPA project at national level, also replied to the consultation. The composition of these SEPA Committees varies from Member States to Member States, but they normally bring together the national Central Bank, the banking community, and sometimes users' representatives.

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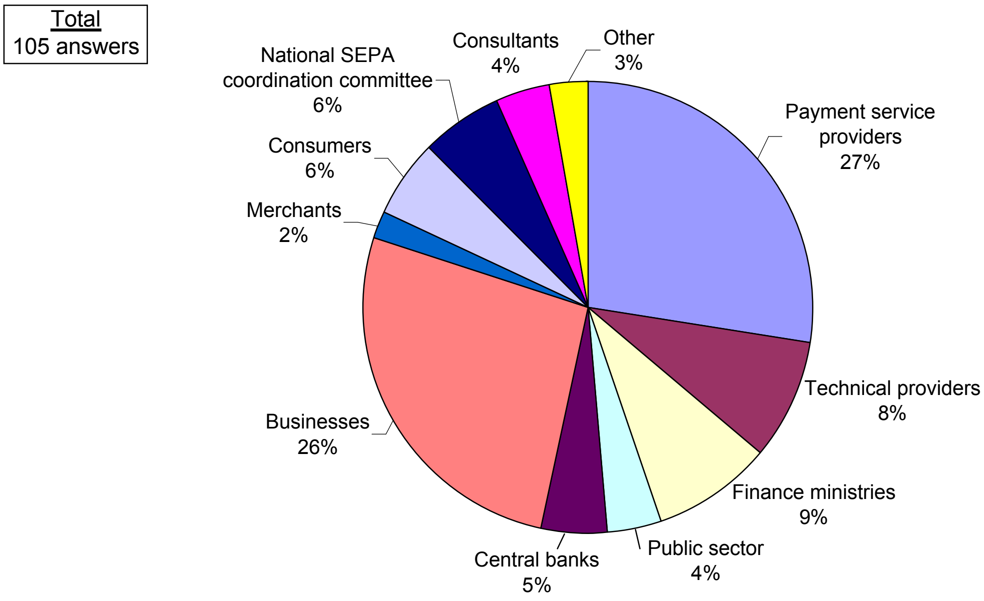
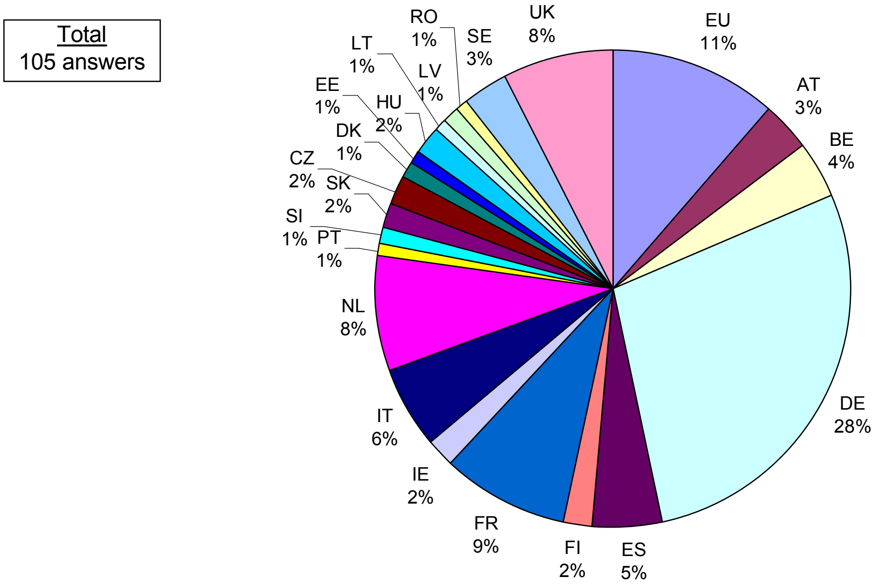
[81] The complete list of responses can be found in Annex 1 of this document and the detailed answers via: http://ec.europa.eu/internal_market/payments/sepa/ec_en.htm.

Graph 1: Number of contributions by stakeholder category (stakeholders or organisations representing them)



In total, contributions were received from contributors in 22 of the 27 Member States as well as from EU representative groups or bodies. Two thirds of the responses came from the euro area Member States, 19 % from the non-euro area Member States. The following graph gives a breakdown of the number of submissions received by territory.

Graph 2: Number of contributions by territorial origin



4. CONTENT OF THE RESPONSES

The consultation document set out 11 specific questions pertaining to the end-date issue. The responses to these questions are analysed in turn in this section.

4.1. Assessment of the need for (a) SEPA migration end-date(s)

Question 1: Do you think that under current circumstances there is a need to support SEPA migration by setting (a) deadline(s) for migration to SCT and SDD? Do you consider that certain preconditions should be met for setting such (a) deadline(s)?

A large majority of respondents, among all categories, emphasised the need to set (a) deadline(s) for the migration to SCT and SDD. A number of reasons were put forward. Setting (a) deadline(s) is considered necessary to accelerate SEPA migration which is currently too slow. Some respondents felt that it would provide incentives or even put pressure on those who were reluctant to migrate today. By accelerating SEPA migration, many underlined that such deadlines would thus allow to reap the full benefits of the SEPA project. This would indeed avoid that two systems for credit transfers and direct debits are managed in parallel for too long a period of time. This would also provide certainty and allow for the appropriate planning of SEPA migration and the attribution of the necessary budgets. Such deadlines were also felt necessary in order to raise awareness regarding the SEPA project. Some indeed considered that SEPA was a political initiative that should be pushed forward like the euro changeover, in order to achieve a true single market for payments in Europe.

Among the majority of respondents which agreed on the need to set (an) end-date for the migration to SCT and SDD, approximately half of them however considered that some preconditions should be met before an end-date could be set.

– The first set of preconditions is legal. Some indeed point out that the Payment Services Directive should be fully transposed in all Member States before (an) end-date(s) could be set. Other had concerns regarding the legal continuity of existing direct debit mandates during the migration to the SDD and required legal solutions to smoothen such migration. Several respondents also considered that balance of payment reporting requirements should be entirely removed so that national and cross-border payments could be treated equally.

– The second set of preconditions related to the quality of the SCT and SDD schemes. Some respondents indeed pointed out that these schemes should first be enhanced to fully meet users' needs before (an) end-date(s) could be set. Regarding SCT, improvements mostly related to message formats, in particular to the possibility to have an enlarged remittance information field. Regarding SDD, improvements concerned more fundamental schemes' rules, such as the management and checking of the mandate, in order to ensure a higher level of security for this new pan-European instrument.

– Third, some respondents considered that the financial conditions of these new payments should be clarified. For several payment service providers, there was thus a need for stable business models, especially regarding SDD. On the users' side, several respondents also underlined the need for more clarity regarding the fees that would be charged for these new payments.

– Fourth, many respondents underlined that users should be given some time to use the new SEPA products. Some therefore considered that deadlines for SEPA migration should not be set before SDD products are made available by payment services providers in the different Member States and before users had the opportunity to use them during a reasonable period of time. Several respondents also underlined the critical role public administrations would have in the migration to SEPA instruments, given the volume of payments they represented in each Member State.

While a sizeable majority of respondents expressed support for (an) end-date(s), a number on the contrary considered that there was no need for such end-date(s). These responses came from a particular category of payment service providers on the supply side. On the demand side, some corporate, public administrations from three Member States and two national consumer organisations also expressed reservations. The reasons mentioned concerned the legal issues already mentioned previously (PSD transposition, mandate migration) and the necessity to improve the quality of the products. But respondents mainly emphasised that SEPA migration should not be imposed on the market. It should rather be and remain a market-driven process, respecting payment service providers' freedom of business, as well as users' choices. Users should thus be given the time and possibility to use SEPA products and to choose between legacy and SEPA products, depending on which ones are better in terms of level of service and pricing.

Question 2: How much time would be needed to budget and implement technically SEPA migration? What is the anticipated impact of SEPA migration on your organisation/business (e.g. on your IT systems, organisation, human resources, communication, or any other area)? Please provide quantitative and financial analysis if available.

Question 3: What deadline(s) would you see as feasible for the replacement of legacy euro credit transfers and direct debits by SCT and SDD?

Not all respondents provided answers to these two questions. Consumer organisations in particular did not reply, since SEPA migration does not imply changes of organisation for them. Some other respondents did not reply because they were not in favour of an end-date. The answers were moreover difficult to compare as some were heterogeneous or not complete. The following analysis should therefore be taken with caution.

The period of time necessary to allow for a smooth migration to SEPA was very diverse from one stakeholder to another. Most of the answers referred to 3 years or 3 to 5 years as an adequate period of time. Some respondents, mostly corporate representatives, considered that migration was possible within a shorter timeframe. On the contrary, a few others expressed the need for a longer period of time, up to 15 years for one respondent. Some respondents also made a difference between the period of time needed for SCT migration and for SDD migration, the latter being longer given the number of changes involved.

In terms of impact on their organisation, only a very limited number of respondents were able to provide quantitative analysis of this impact. Some emphasised that the impact could be significant, in the event where existing direct debit mandates could not migrate to the new SEPA direct debit mandates. In qualitative terms, respondents underlined the impact SEPA migration would have on their IT systems and applications, as well as on their communication to clients. A few also mentioned organisational impact as well as a human resources impact.

Among the deadlines mentioned as feasible for the migration to SCT and SDD, a majority favoured either end-2012 or end-2013 when both SCT and SDD migration were considered together. A large number of respondents however made a difference between SCT migration, which could be achieved by end-2011 or end-2012 for most of them, and SDD migration, for which a later deadline was mentioned or for which no deadline was envisaged yet.

4.2. What would an 'end-date' for SEPA migration mean?

Question 4: Do you think (a) migration end-date(s) should cover only standards (i.e. the account identifiers and the payment format to be used) or the schemes' rules as well? Please explain why.

Almost all respondents indicated their preference for an end-date covering both the standards to be used and the schemes' rules associated to these. Most underlined that this would be clearer for users and easier to handle as a process. This would moreover fit better with the overall objective of the SEPA project to achieve a true harmonisation of the European payment market and would therefore trigger more benefits for all. There was indeed a risk of different implementation of the SCT and SDD schemes within the area if only standards were made mandatory. Some also pointed out that some of these standards were already in use within legacy systems. If only the SEPA standards were made mandatory, this would therefore not guarantee that existing payments would migrate to SEPA. One respondent therefore suggested mandating the use of the SEPA subset of ISO 20022, since this was the technical definition of the SEPA messages.

A few respondents however mentioned that only the SEPA standards should be made mandatory, in order to allow for change and innovation on the payment market, which would not be possible if the end-date also fixed the scheme's conditions.

Three stakeholders also suggested a phased approach as a compromise solution, whereby standards could first be made mandatory, allowing for a quicker migration, and would be followed by mandatory schemes' rules as soon as possible afterwards.

Question 5: Do you think (a) migration end-date(s) should cover only interbank space (i.e. bank/bank and bank/infrastructure communication) or the complete end-to-end payment chain (including customer/bank communication)? Please explain why.

A large majority of respondents expressed their support for an end-date covering not only the interbank (or payment service provider) space, but also the customer to bank and bank to customer spaces. In terms of communication, this was seen as providing more clarity for all stakeholders. This would also allow for full straight through processing of the payments and would avoid costs and risks of errors linked to conversion services that payment service providers would have to set up if only the interbank space was covered. A few respondents also underlined that it would be very difficult to make SEPA mandatory only in the interbank space as payment service providers were partly dependent on their clients for the provision of the necessary information to the processing of payments. Some would however like payment service providers to be able to provide conversion services on a temporary basis in order to allow for a smooth SEPA migration at the beginning.

On the contrary, some respondents expressed a preference for a possible end-date covering only the interbank space. This was the case for some payment service providers' and technical providers' organisations, a few public authorities and two national SEPA coordination committees. Two main reasons were mentioned: first, to leave room for competition and innovation in the relationships between the payment service providers and their users; second to let users choose whether and at what pace they wanted to migrate.

A few respondents suggested some intermediary solutions. One pointed out that the end-date could cover the interbank space, as well as public administrations given their critical role for SEPA take up. Another considered that the end-date should cover the complete payment chain, except for the formats in the customer-to-bank communication space for SCT, as it was one of the most difficult parts of SEPA migration. A few others suggested a phased approach, whereby the end-date could apply to the interbank space in a first step and to the customer-to-bank and bank-to-customer spaces in a second step.

Question 6: Do you consider that setting (a) migration end-date(s) should imply that all legacy payments migrate to SEPA payments or could some products be maintained/developed on the market besides the SEPA products? Please explain why and specify the conditions which would have to be met by such products.

A large majority of respondents were of the view that a migration end-date should not mean that all legacy payments should migrate. In some markets, some legacy instruments indeed present specific functionalities, due to historical or legal reasons, which are not available within SEPA schemes. This is the case for some non preauthorised forms of direct debits, dematerialised bills of exchange, promissory notes, or other products currently tailored for specific user groups. Moreover, these services sometimes meet specific needs that are not interesting outside the community that currently used them. Some also pointed out that it was important to leave some room for innovation and competition on the payment market.

In their answers, many of these respondents nevertheless underlined that there was a need to define precisely the payment products that would be authorised to remain on the market. Some suggested in this respect to use the definition of corresponding payments provided in the new Regulation on cross-border payments. Others suggested to define a quantitative threshold (such as 10 % of payment transactions) above which such payments would not be considered as 'niche' products anymore. Some other criteria were mentioned, such as making this information public for transparency reasons and making it mandatory to justify why such payments could not migrate. Some respondents also pointed out that the situation was likely to evolve in time as it would be eventually logical for such 'niche' product(s) either to be phased out because of low demand or incompatibility with European laws, or to be integrated within SEPA, for instance through AOS. This would however require more time than standard products. In any event, innovation should always remain possible on the market according to a few respondents.

Some respondents, especially corporate representatives, however considered that SEPA migration should mean that all legacy payments migrate to the new SEPA schemes. Besides cheques and urgent credit transfers which were not in the scope of SEPA, all credit transfers and direct debits should in their views migrate to be fully in line with SEPA vision and fully reap the potential benefits of this project. A few pointed out some conditions to allow this full migration, in particular an e-invoicing service or a possibility of payment initiation by mobile.

4.3. One end-date or several end-dates?

Question 7: Do you think there should be a single end-date for SCT and SDD migration or two separate migration end-dates? Please explain why.

A majority of respondents expressed their support for an end-date to be set separately for the two schemes in the scope of this consultation, i.e. the SCT and the SDD. Many pointed out that this would be logical given that these two schemes had not been launched at the same time and are therefore not at the same level of maturity. The SCT and the SDD are also two different instruments clearly distinct in the mind of users. Given that SCT migration involved fewer changes than SDD migration and therefore seemed easier, separate end-date(s) would be justified so as to avoid delaying SCT migration. Separate end-dates would moreover allow for a concentration of efforts on one scheme only and a better management of each migration. A few respondents added that individual communities should however not be prevented to migrate earlier and that earlier end-date could be set at national level.

Some respondents, mostly on the supply side of the market, were on the contrary of the view that it would be better to set (an) end-date(s) both for SCT and SDD at the same time. In terms of communication, SEPA migration would be clearer to the public. It would moreover induce fewer costs as the two migration could be handled in one go and could in particular be easier for corporate that have to migrate their IT systems. Both schemes indeed rely on the same standards.

Question 8: What do you think the best approach would be regarding the territorial scope of (a) migration end-date(s)? Please explain why.

In terms of territorial approach, a large majority of respondents indicated their preference for a European end-date, as it would provide more visibility to the SEPA project from a communication point of view. It would also ensure a level playing field across Member States and allow companies to develop a true European approach for their payments. On the contrary, setting different end-dates in the area would be costly and difficult for those companies and banks doing business across the EU.

Most of these respondents however considered that some flexibility should be allowed to set an earlier end-date at national level if the national communities wished so. This would allow to cater for specific situations at national level and not to delay Member States whose migration was already well advanced. This would also avoid a European wide big bang where too much migration would be concentrated at the end of the migration period. Such flexibility should however fulfil two main conditions according to the respondents: first, the end-dates should be set in such a way as not to penalise the migration of the most advanced Member States; second, such flexibility should remain compatible with cross-border payments using legacy formats within the area until the official end-date.

A phased approach for the migration was also suggested. One respondent thus indicated that a distinction could also be made between those countries which were already quite advanced in terms of dematerialization of payment transactions, and those where this was less the case. Another respondent suggested to set (an) end-date(s) for cross border payments so that multinationals which would like to centralise European payments could do so at the same time, while domestic payments could switch over to SEPA at their own pace.

A last set of respondents, among which many were not convinced about the need for an end-date, emphasised the need to determine such end-dates only at national level in order to fully meet market conditions and adapt the pace of migration accordingly.

Question 9: Do you think that the migration end-date(s) should be the same for euro payments in euro area countries and in non-euro area countries or that there should be different migration end-dates? Please explain why.

Views were rather mixed on this question. A first set of respondents, mostly from the euro area Member States, considered that the same approach should be followed throughout the European Union for the reasons already mentioned above regarding the need for a European end-date. They also considered it easier to migrate when payments volume are low. These respondents however pointed out that the end-date should only concern euro payments (as indicated in the question), provided they existed today, and not payments denominated in national currencies.

An equivalent number of respondents, with more representatives from the non-euro area Member States, were on the contrary of the view that end-dates should be different for euro payments in non-euro area countries. Euro payments indeed represent small volumes in non-euro area Member States, as well as in the total of euro payments in the EU. These respondents therefore considered that such migration was not necessary to the success of SEPA. Regarding the modalities of the end-date for non-euro area Member States, some respondents indicated that SEPA migration should only occur at the time of the euro changeover of the Member State. Other referred to the provisions of the new Regulation on cross-border payments according to which non-euro Member States were given four more years for their migration, or one year after their euro changeover if the latter occurred within the first three years of the period and considered that some end-date(s) should be set at one point for non-euro area Member States.

4.4. How to set (an) end-date(s)? Self-regulation vs. regulation

Question 10: If (a) migration end-date(s) was (were) to be established, should this be done by self-regulation or by regulation? Please explain why and elaborate on the modalities (e.g. if regulation is preferred, who would should be the regulating body?).

A large majority of respondents indicated their preference for a regulation, for several reasons. This was considered more in line with the political vision of a single market for payments in Europe as this would give a clear signal to market participants that SEPA was irreversible. Respondents also indicated that a regulation would have the advantage to be enforceable within all the area. This was seen as necessary to force stakeholders to migrate to SEPA and to avoid competition issues that such migration may raise if implemented only by market participants. Almost all respondents favoured a EU legislation, but a few respondents mentioned ECB regulation as well, as one of the possible tools which could be used in complement to EU legislation. Many respondents however emphasised that, in the case of a regulation, it would be of primary importance to associate all stakeholders to the decision making process for the success of SEPA. A few respondents, mostly on the supply side, also suggested following a regulatory approach at European level, while leaving the possibility for national communities to set earlier end-dates through balanced solutions between self-regulation and regulation.

A few respondents, mostly on the demand side of the market and from one Member State, on the contrary indicated their preference for an end-date set by the market, considering that SEPA was a project of the market, which should therefore be able to decide how to migrate and when. Views were however divided on whether such process should in that case only involve the supply side of the market or all market participants.

A few other respondents, mostly on the demand side, finally considered some intermediate solutions, whereby self-regulation could be accompanied by some political support or endorsement in order to accelerate market developments. Ultimately, a regulation could then be put forward in the event of failure, according to two respondents.

Question 11: Do you think that some criteria (such as critical mass) should first be followed before setting any migration end-date(s)? If yes, please explain why and elaborate on these criteria.

A majority considered that it would be counterproductive to follow some quantitative criteria, such as critical mass, before a migration end-date could be set. There was indeed a risk that the end-date would not be set as long as some level of migration was not reached, but that such level would never be reached because there was a need for an end-date to reach a critical mass, leading to a circular reasoning. Making the end-date dependant on some external factor would according to these respondents moreover introduce some uncertainties in the process and could make the planning necessary for SEPA migration more difficult. A few respondents however considered that some quantitative criteria could be usefully followed, without them to be prerequisite for the end-date.

On the other hand, a significant number of those who provided an answer were of the view that a certain volume of payments should migrate before an end-date can be set. These responses mainly came from two Member States and from the demand side of the market. Such criteria would indeed ensure that users' acceptance of the SEPA products is fully taken into account, in accordance with the fact that SEPA was primarily a market driven project. Most of these respondents mentioned criteria relating to a certain percentage of transaction volumes to be reached, ranging from 50 % to 90 %, to measure this SEPA migration. Some respondents also suggested a more balanced approach taking into account both volume migration and geographical coverage.

Annex 3a: Dialogue with the Industry and Public Consultation on MIF for Direct Debit

Dialogue with the Industry

SEPA DD MIF has been extensively discussed in the context of a dialogue with the banking industry represented in the EPC for a long time. The discussion focused to a large extent on the justification of a MIF per transaction under EU competition rules. In the framework of the competition analysis of SEPA undertaken by DG Competition and the National Competition Authorities, the question had arisen of how to assess under the EU competition rules whether there is a justification for a MIF per transaction. As a result, a dialogue with the EPC took place during most of 2008. In this dialogue it was signalled that a general per transaction MIF does not seem necessary nor justified for direct debit transactions.

However, in view of the diversity of situations at national level as regards the existence of MIFs per transaction and the expected positive effects to European consumers and companies of a full migration to the SDD system, the Commission acknowledged the need to incentivise banks, in particular the ones which currently receive high MIFs, to migrate towards SDD. To cater for this need, under the clarification provided by the Commission and the ECB in September 2008[82], it could be envisaged that for the per transaction MIFs applied in the existing domestic legacy direct debit systems are maintained for domestic transactions under the SEPA Direct Debit systems during a short and well defined transitional period, unless competition proceedings at national level would lead to these MIFs being decreased, in which case this lower level would apply. Likewise, a default MIF per transaction for cross-border SDD transactions could be envisaged for the same transitional period, in order to protect the transitional maintenance of domestic MIFs from cross-border arbitrage for MIF values below this default level.

This concept of a transitional MIF which might be acceptable under the EU competition rules was taken over in the discussions on the review of Regulation 2560/2001 on the equivalence of charges for national and cross border payments in euros. As a result, its successor Regulation 924/2009[83] now defines a transitional framework for migration to the SEPA Direct Debit system by banks. This transitional regime includes a three-year period, until 31 October 2012, for maintaining MIFs for national direct debits and a temporary default MIF for cross border SEPA direct debit transactions. This however does not prevent national competition authorities from reviewing existing MIFs for national direct debits including a 'national SDD' during the transition period.

During the negotiations of the proposal for Regulation at the beginning of 2009, the dialogue on MIFs for SEPA direct debit after the expiry of the transitional period was re-launched. With certainty on a transitional regime in sight under Regulation 924/2009, the industry also called for clarity on the compatibility of the long-term 'business model' with the competition rules. The background of this was that without such certainty on a long term model some banking communities still were reluctant to sign up to the SDD system, which risked jeopardizing its launch. Recital 11 of Regulation 924/2009 mentioned in this respect that the industry could make use of the legal certainty provided during the transitional period to develop and agree a common, long-term business model in line with EC competition law and

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[82] Press Release: *Payments: Commission and ECB support launch of pan-European SEPA Direct Debit; provide guidance to industry*, IP/08/1290, 4.9.2008.

[83] Article 6 of Regulation 924/2009 on cross-border payments in the Community, OJ L 266/11, 9.10.2009. This Regulation applies since 1 November 2009.

the Community regulatory framework. Also, the Commission intended to provide guidance, "within the framework of a sustained dialogue with the banking industry and on the basis of contributions made by the relevant market actors".

In reply to the call for guidance on the long term business model the Commission and the ECB adopted a joint statement on 24 March 2009[84]. They expressed the view that a general per transaction MIF does not seem necessary nor justified for direct debit transactions. A MIF for error transactions could nevertheless be envisaged, provided it is economically justified, enhances efficiency and benefits users.

Following the joint statement, the EPC plenary of 31 March 2009 decided in favour of the launch of SDD on 1 November 2009.

The Joint Statement also stated that "provided that the Commission will have received the necessary contributions by relevant market actors, the Commission expects to be in a position to provide further guidance by November 2009, which would clarify the eventual case-by-case assessment under Article 81(3) EC Treaty".

However, in summer 2009, the EPC decided not to further invest as scheme manager in efforts to obtain clarity on a possible multilateral Balancing Payment Mechanism for R-transactions under the core SDD scheme[85]

Consequently, the dialogue on (an) acceptable model(s) for collective financing arrangements regarding SDD could not be completed. Notwithstanding this, to assist the industry, the Commission subsequently adopted a Commission Working Document, setting out the general principles to be applied under competition rules when analyzing collective agreements on interchange fees which was followed by a public consultation[86].

The Commission Working Document focuses on general principles concerning MIF arrangements – applied on a per transaction basis and concerning R-transactions – and alternative payment arrangements. It outlined the principles applied under competition law when analyzing such systems, with a view to provide greater clarity and predictability within the general analytical framework used to determine whether MIFs in the context of direct debit markets comply with competition law, in particular as regards Article 101(3) TFEU.

The Document explained that MIFs result from a collective agreement between payer and payee banks that restricts competition between the payee banks on the fees they pay to payers' banks. It distorts the competition between payee banks by putting a floor under the fees that payee banks charge to their corporate customers. Companies will have to pass on these inflated fees to their consumers through their own bills. Since the consumer's own bank – the payer bank – receives its revenues from the payee bank it might not charge the consumer, who thinks he receives the service for free. This is however not true as costs are being passed on by the company to their customers, the final consumers. The consumer has no way of

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84 Joint statement by the European Commission and the European Central Bank clarifying certain principles underlying a future SEPA direct debit (SDD) business model See: http://ec.europa.eu/competition/sectors/financial_services/sepa_direct_debit.pdf.

85 Answer by the EPC to the November 2009 consultation, p. 2.

86 http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1666&format=HTML&aged=0&language=EN&guiLanguage=en

knowing that he pays indirectly through the company beneficiary of the direct debit and how much he pays.

Even if the consumer knew that his bank is charged for the transaction and if he would know the level of the fee, the collective character of the fees prevents the consumer from looking around and switching to a bank that will charge less for retail banking operations with counterparties. Commercial enterprises whose banks are being charged this 'minimum floor' are also restricted in eliciting lower banking fees. In fact this arbitrarily and collectively fixed hidden fee is not observed by any of the users of the direct debit service.

Summary of the answers to the public consultation on MIF for Direct Debit

(November 2009) Overall, 23 responses were received in the public consultation: 14 originating from the banking sector, either from individual banks (4), national (7) or European banking federations (3). Eight user organisations responded to the consultation, three European and five national ones. Most replies from the banking sector originate from countries where MIFs per transaction (France, Italy) or MIFs for R-transactions (Germany) are in place. The EPC, as the owner and the manager of the SDD scheme also submitted a reaction. Apart from the EPC, only the European banking federations representing mostly payer banks recipients of MIFs (savings and cooperative banks) responded.

The EPC, whilst acknowledging the previous clarifications provided through Regulation 924/2009 and the Joint Statement of the European Central Bank and the European Commission of 24 March 2009, recalls the decision of the EPC Plenary of 26 June 2009 not to pursue the case for a possible MIF for R-transactions under the core SDD scheme. Whilst not making a substantiated contribution, it considers that some communities of scheme participants may want to continue to support the case for a MIF for R-transactions. This suggests that there is no majority within the EPC to request a MIF for R transactions.

The contributions on the substantial aspects of MIFs can be summarized as follows:

– Opinions are polarised with regard to the question whether a MIF sets a floor to charges negotiated by payee banks with their clients. The banks that responded to the consultation generally defend the view that it does not. However, end-users argue that it does. Some banks argue that large invoicers have sufficient bargaining power to pay only part of the MIF, or even no MIF at all. On the other hand, most users' respondents disagree with the respondents from the banking side and support the conclusions of the consultation document on this issue. Some are of the view that MIFs are a form of collective price fixing by banks in an untransparent way that distorts competition and raising barriers to entry.

– The working document highlights the fact that card payments and direct debit payments are different – notably in terms of the (higher) potential for payees to incentivise the use of direct debit by payers. A number of respondents from the banking side also underscore the differences between the two payment instruments. In this respect both technical (initiation of the payment) or legal (pre-existence or not of a contract between the payee and the payer, possibility to revoke the payment, reimbursement rights) differences are mentioned.

– On the issue of costs incurred by banks, one respondent from the banking sector argues that a large part of the costs related to direct debit is fixed and does not depend on the number of transactions. On the other side, some respondents from the end-user side are of the view that, given that a large part of the related costs is fixed, the fixed costs should have become diluted with transaction volumes having increased strongly, which should have led to a significant decrease in interbank fees. They submit that this however has not happened. Moreover, some of the French end-user respondents argue that different payment instruments in France, each with their own MIF, do not exhibit a positive correlation between the cost of processing and the level of the MIF applied to it. Allegedly, the situation is rather that the better performing the instrument, the higher the MIF. The evidence in the discussion of costs from both sides as mentioned above is however limited.

– A number of respondents argue that payees generally benefit most from DD. Due to this, an association representing payers is of the view that payees should be charged whilst payers should see no (visible) charge.

– On the question whether the absence of a MIF would mean that payers will be (more) visibly charged for individual DD transactions as compared to today's situation, most respondents from the banking sector argue that this would be the case. One bank argues however that this would be an independent commercial decision to be made by each bank.

– In contrast to this, most end-users emphasize that, SDD being payee-driven, it is no longer banks that handle and store the mandates, but payees. As a logical consequence of this, one association of payees points out that SDD thus shifts a significant cost from the banking side to the payee. In its view, this means that the costs incurred by banks will be even lower than before while the work performed by the payer bank was already minimal, and so were its costs.

– Besides, most respondents from the banking sector argue that in the absence of a MIF, payees would not pass on their benefit in terms of cost reduction to their clients. Some argue that the unequal bargaining power between the payer and the payee is problematic in this respect, or that a MIF is 'automatic', and is thus more efficient in terms of 'pass on' as compared to rebates which would be 'individual' and/or 'manual'. In contrast, a number of respondents on the users' side agree with the consultation document that rebates provide a direct incentive to payers, whereas the same effect is much less visible if operated through a MIF: a rebate at the user-level is seen as more effective and efficient than inter-bank fees. On top of this, incentivisation of the use of a specific payment instrument is seen as being part of the commercial freedom of payees as regards their business model, according to several respondents.

– Regarding the existence of rebates concrete examples, illustrating that substantial rebates are given to payers by payees for the use of direct debit have been provided by some users. Banking respondents on the other side seem to be largely unaware of the existence of rebates. A banking respondent states that it does not know of any rebates given by payees to payers in Spain. Some French respondent banks are also very critical of the effectiveness of rebates. In complete contradiction with these though, a French respondent bank argues that incentivization is very common in France: through publicity and rebates for clients that pay via DD.

– Some respondents from the banking sector are of the view that payers are not always offered another choice than to pay via DD. To allow for rebating to be effective, an association of payers pleads for an obligation for payees to offer various means of payment. The inability of consumers to choose between payment instruments, would make superfluous the incentivising of the use of SDD or surcharging for using an alternative instrument, as this can only apply if other instruments than SDD are available.

A number of respondents have also addressed the multilateral R-transaction fees option in their replies:

– A few respondents from the banking sector are calling for more clarity as regards the difference between MIFs for regular transactions and multilateral R-transaction fees. One banking respondent is of the view that the costs for R-transactions if assessed comprehensively cannot be readily distinguished from the costs of normal transactions or the operational costs of banking business. This view does not seem to be shared by other banking respondents supporting a cost-based multilateral R-transaction fees option.

– Opinions are polarised otherwise. Some end-user associations argue that each side should bear its own costs (the so called SHARE principle), even for R-transactions and therefore argue for a business model without MIFs for R-transactions.

– The working document raises doubts as to whether R-transaction MIFs as a financing mechanism could be compatible with competition rules. However, many of the comments on the banking side question the merits of the R-transaction MIFs as revenue streams. Many oppose R-transactions MIFs as in their view they cannot be used as a financing mechanism within an efficient business model, as R-transactions should happen only rarely. Given the small part of R-transactions in the total number of transactions, either R-transaction MIFs would not compensate for all the costs of the system or unacceptably high R-transaction MIFs would have to be imposed. Some point out that cost-based R-transaction MIFs imply that the costs for regular transactions will not be compensated this way. On the other hand, some other (banking) respondents – although supportive of R-transaction MIFs – have a wide interpretation of the meaning of 'cost based', suggesting that investments, operational costs and a fair rate of return should be taken into account. Some also argue that the difference in labour costs across Member States should be taken into account.

– Those respondents that are in favour of R-transaction MIFs generally agree with the working document's analysis and emphasize in particular that the fees should be cost-based in order to cover the cost of R-transactions only. Some respondents both on the banking and on the users' side submit that payer banks should not be permitted to compensate for any inefficiency on their part through R-transaction MIFs.

– A difficulty flagged by several respondents is how to find out who caused the R-transaction. Some respondents argue that it is not always possible for banks to determine whether the origin of the R-transaction was the fault of the payer or of the payee. An association of payees is in favour of an automated settlement procedure which allocates fees to the party that has probably caused the R-transaction (based on the majority of the actual cases). It submits that representing exceptional cases cannot be the objective of an interchange fee with the objective of increasing efficiency: R-fee reimbursement in exceptional cases should therefore be settled between payer and payee outside SDD. With the same objective of increased efficiency in mind, an association of payees pointed out that prior checks by the payer bank of the mandate and of the availability of funds could benefit end users and the (efficiency of the) SDD scheme as a whole, in line with the suggestion in the working document.

– Some respondents submit that, as an alternative to pure R-transaction MIFs, the payer bank should fix and publish the handling fee for R-transactions unilaterally and in an automated way, which would save a lot of (bilateral) contractual costs.

On bilateral interchange fees:

– A number of respondents also elaborate on the section in the consultation document dealing with bilateral interchange fees (BIFs), which mostly clarified the nature of 'pure' bilateral interchange fees under competition rules. Instead of addressing this though, most of the responses restrict themselves to squarely rejecting BIFs as a financing mechanism's option, on the basis of the number of BIFs agreements which would allegedly have to be concluded between every single bank in the SEPA territory. Some respondents say it is not a feasible option unless there is a default MIF on top of which – more favourable – bilateral fees could be agreed between some banks.

– Some respondents argue that there is mandatory reachability for SDD, so – insofar as they currently offer a national DD service – banks have no choice whether to accept or refuse SDD, whether with or without a bilateral agreement. As the payee banks know that payer banks will have to handle the DD anyway, it is seen as not appropriate to leave to the market the conclusion of bilateral agreements as banks are not in a balanced negotiating position.

– Two Dutch respondents express their support of BIFs, which is the system currently used in the Netherlands.

The German Savings Banks made a proposal on the fee for R transactions. The idea was that each bank unilaterally set its own fees (interchange fee) for R –transactions to be paid by the payee's banks. Under this proposal, all the payer banks should display on their website the fee they request for an "R" transaction. All payees' bank could thereby know in advance whether the consumer's banks take fee for that kind of transaction.

National Competition Authorities (NCAs) have been continuously involved and consulted in the Dialogue between DG Competition and the EPC, including on the issue of the SDD MIF and were generally supportive of the approach followed. Eleven out of the twelve NCAs responding to the consultation were supportive or took a neutral position. However, in addition to the replies to the consultation mentioned above, there was also a submission from the Portuguese Competition Authority (PCA), which was critical of the Commission's approach, inter alia highlighting the advantages of MIFs for Direct Debit in light of the efficiencies of the Portuguese Direct Debit system.

Annex 4: Integrating a fragmented market – the background of the SEPA project

The European payments market after the introduction of the euro

A unique opportunity – and at the same time a crucial necessity – for the integration of European payment systems emerged after the introduction of the euro. From the outset, it was obvious that the full benefits of a common currency and a true single market would only be reached if businesses and consumers were able to make payments throughout the whole of the EU as rapidly, reliably and cheaply as they can do domestically. Furthermore, with common payment standards and an inter-operable payments infrastructure across the EU, it would be possible to gain economies of scale, support pan-European innovation, increase competition and, as a consequence, offer payment services at the best possible prices and service levels throughout Europe.

However, because of the previous existence of different national currencies and major differences in national legislations, payment systems in the Member States historically evolved independently of each other and within the scope of their national boundaries. Consequently, Member States had developed and implemented different technologies, payment message formats, payment services and governance models leading to significant cost, price and service level differences across the EU. At the same time, barriers for cross-border competition were significant and innovation of payment services mostly took place at national level. Even after the euro introduction, pure market forces in themselves did not create sufficient momentum to overcome this fragmentation. It therefore soon became clear that only a concerted effort of the payment services industry, supported by the European legislators, could lead to an integrated payments market.

The vision of a Single Euro Payments Area

In order to address the fragmentation described above, the European banking sector developed the concept of a Single Euro Payments Area (SEPA). In a completed SEPA, all euro payments are considered domestic and no distinction is made between cross border payments within SEPA and national payments. Therefore, payments in euro could be made between any two payment accounts in SEPA using a uniform set of payment instruments. The aim of SEPA is to provide European citizens and businesses with low cost, user-friendly, and reliable payment services. Moreover, SEPA payment instruments should lead to convergence towards a service level comparable to the most advanced national payment instruments which exist today.

The envisioned SEPA is the largest payment initiative ever to be carried out in Europe and a project which many consider even surpasses the euro cash change-over in terms of its scale and complexity. In return, the SEPA project has the potential to provide tremendous benefits to the EU economy through increasing payments efficiency, improving business competitiveness and providing a platform for future innovation in fields such as mobile payments, online payments, and e-invoicing.

The European Parliament (EP), the Council, the Commission, and the European Central Bank (ECB) together with the National Central Banks of the Eurosystem have always expressed strong political support for SEPA. In its SEPA resolutions of 12 March 2009 and 10 March 2010, the EP emphasised "…its continued support for the creation of SEPA, which is subject to effective competition and where there is no distinction between cross-border and national payments in euro…". The following chronology includes key statements for the general support of SEPA by the Council, the Commission, and the ECB.

4 May 2006	Joint Statement from the European Commission and the European Central Bank *A common vision for the Single Euro Payments Area (SEPA)* *"(…)The delivery of SEPA instruments is only the first step, since the introduction of the instruments as a mere cross-border payment solution would not result in a genuinely integrated market at the level of the euro area. In particular, a critical mass of national credit transfers, direct debits and card payments should have migrated to SEPA payment instruments by the end of 2010. Further steps will be necessary in order to ensure widespread adoption of new and efficient SEPA instruments. (…) The Commission and the ECB support to the greatest possible extent continued self-regulation by the industry, but given the importance and the size of the social and economic benefits of SEPA, the Commission expressly reserves the right to introduce or propose necessary legislation to achieve it."* http://www.ecb.int/press/pr/date/2006/html/pr060504_1.en.html#
22 January 2008	Economic and Financial Affairs Council conclusions on SEPA, press release, 2844th Council meeting, p. 14-15 *"The Council EMPHASISES its support for the aim of the Single Euro Payments Area (SEPA): to achieve an integrated market for payment services in euro which is subject to effective competition and where there is no distinction between cross-border and national payments in euro within the EU; (…) CALLS for rapid and smooth SEPA migration so that dual payment processing costs are kept to the minimum."* http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/98276.pdf
10 February 2009	Economic and Financial Affairs Council conclusions on SEPA, press release, 2922nd Council meeting *"The Council REITERATES its support for the aim of the Single Euro Payments Area (SEPA), which is to achieve an integrated and competitive internal market for euro payments, (…) NOTES that significant efforts are required to accelerate the current slow rate of SEPA migration, which seems to be focused mainly on cross-border payments and EMPHASISES that the full benefits of SEPA can only be obtained through the full migration of domestic euro payments traffic…"* http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/105993.pdf

The implementation of the SEPA vision from 2002 onward required the removal of all legal and technical barriers that keep national markets apart. While the Commission focused on creating the necessary regulatory framework in order to remove legal hurdles, the banking industry set out to eliminate technical barriers by the development and implementation of common payment formats, messaging and communication standards to ensure interoperability and adequate security.

The regulatory framework

The first Regulation on Cross-Border Payments (EC) No 2560/2001 provided the regulatory impetus for the integration of the European payments market by fixing the same bank-to-customer charges for cross-border euro payments as for corresponding domestic euro payments.

It was followed by the Payments Services Directive (2007/64/EC) which provided the overall legal framework for SEPA, by defining the legal conditions and requirements for payment services within the EU, both for cross-border and domestic payments. The PSD, which had to be implemented in Member States by 1 November 2009, facilitated in particular the development of common rules for cross-border direct debit transactions.

Finally, the second Regulation on Cross-Border Payments (EC) No 924/2009 facilitated the implementation of a pan-European direct debit scheme by setting temporary rules for inter-bank remunerations for the execution of direct debit transactions. Furthermore, the Regulation stipulated that those banks which offer national euro direct debits shall also be reachable for pan-European (SEPA) direct debits in euro by 1 November 2010.

The competition framework

In the framework of the creation of the Single Euro Payments Area (SEPA) the question of how to assess collective financing mechanisms for SEPA Direct Debit (SEPA DD) under the European competition rules has arisen.

Initially, introducing a collectively agreed interbank fee for SEPA DD had been contemplated by the organisation that has set up the SEPA Direct Debit system, the European Payment Council or 'EPC'. This so-called Multilateral Balancing Payment (MBP) was a multilateral interchange fee (MIF), i.e. a collectively agreed fee to be paid by the payment service provider of the payee to the one of the payer for each SEPA DD transaction. Such MIFs per transaction exist in the legacy schemes of some Member States. Currently, two types of MIFs can be observed on the market:

– per transaction multilateral interchange fees and

– multilateral R-transaction fees.

A per transaction MIF is a fee agreed collectively by payer banks and payee banks in the framework of a direct debit scheme to be paid to payer banks by payee banks for each direct debit transaction. Such MIFs can either be set by the association responsible for the scheme or agreed collectively by groups of banks participating in the direct debit scheme.

An R-transaction MIF is a fee agreed collectively in the framework of a direct debit scheme to be paid between a payee bank and a payer bank in case of a so-called R-transaction. R-transactions are transactions that cannot be properly executed. Depending on the type of transaction, the letter 'R' can stand for rejection, refusal, return, or reversal, among others. There is a wide range of reasons why it may not be possible to correctly execute a direct debit transaction, including lack of funds, revocation, wrong amount or date, lack of mandate, and wrong or closed account. Depending of the country, R-transactions cover between 0.1 % and 3 % of all transactions.

At present the direct debit schemes of only six EU Member States – 25 % of the market – operate with a per transaction MIF. Currently, per transaction MIFs exist in Belgium (2 cents per transaction), Spain (less than 3 cents), Sweden (11 cents), France (12 cents), Portugal (23 cents), and Italy (25 cents) with a clear trend towards a decreasing or zero MIF. As a consequence, more than two thirds of all direct debit transactions in the EU are executed without a MIF per transaction.[87] Some of the per-transaction MIF arrangements in domestic legacy schemes are under antitrust scrutiny by national competition authorities. Multilateral

[87] ECB Blue Book 2000-2007, http://sdw.ecb.europa.eu/browse.do?node=2746.

R-transaction fees exist in five euro countries, two of which are also among the countries in which per transaction MIFs are applied.[88]

The technical framework

In June 2002, the banking industry established the European Payments Council (EPC) to support and promote the creation of a Single Euro Payments Area. The EPC's role is to define common positions for core payments services. In particular, this entails the formulation of rules, best practices and standards for pan-European payment instruments.

In this context, the EPC developed common schemes for credit transfers and direct debits in euro which are defined by so-called rulebooks. In January 2008, the SEPA Credit Transfer (SCT) scheme was launched, enabling payment services providers to offer a common credit transfer service throughout SEPA, currently encompassing all EU Member States, Switzerland, Norway, Iceland, Liechtenstein and Monaco. This was followed by the launch of the SEPA Direct Debit (SDD) scheme in November 2009. This scheme created, for the first time, a direct debit instrument for euro payments that can be used both domestically and on a cross-border level throughout SEPA.

The schemes developed by the EPC are not obligatory and only those PSPs which have formally adhered to them are allowed to use the SCT and/or SDD schemes. Adherence to SEPA schemes does not imply the mandatory phase-out of national legacy payment instruments for the adhering PSPs. As a consequence, both the SCT and SDD schemes currently co-exist with national legacy payment systems.

The EPC is supported by national coordination committees which aim at facilitating the migration from legacy to SEPA instruments in the different Member States.

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88 R-transaction MIFs of varying sizes exist in Austria, France, Germany and Portugal. In Spain, such R-transaction MIFs only apply to non STP direct debit transactions.

Annex 5: Payment data EU

Table 1: Volume of transactions per payment instrument, in millions (2008)

Member State	Credit transfers	Direct debits	Cards (except e-money cards)	Cheques	Other
Belgium	929.5	247.9	934.1	8.8	81.4
Germany	5 624.6	7 982.2	2 244.4	65.2	48.8
Ireland	168.1	104.0	317.9	117.2	–
Greece	36.6	15.9	84.7	28.8	1.8
Spain	780.4	2 308.9	2 098.4	136.0	62.1
France	2 697.3	3 023.6	6 542.5	3 487.4	142.6
Italy	1 062.9	554.1	1 395.9	384.9	418.4
Cyprus	16.9	12.4	30.2	26.8	–
Luxembourg	63.0	14.1	50.2	0.2	2.2
Malta	4.9	1.1	10.1	11.9	–
Netherlands	1 479.7	1 225.5	1 874.1	–	176.1
Austria	961.0	794.0	344.3	3.0	37.1
Portugal	136.2	190.7	893.6	173.3	0.9
Slovenia	171.0	41.5	108.6	0.3	–
Slovakia	212.2	101.8	87.3	0.1	–
Finland	748.0	82.0	1 011.0	0.6	–
Euro area sub-total	**15 092.2**	**16 699.6**	**18 027.3**	**4 444.6**	**971.4**

Bulgaria	56.7	0.4	12.7	–	–
Czech Republic	n.a.	n.a.	147.5	0.3	84.9
Denmark	287.7	193.2	935.9	13.7	–
Estonia	100.1	17.8	148.3	0.0	0.0
Latvia	121.9	4.4	95.1	0.0	0.9
Lithuania	109.7	10.9	88.9	0.3	–
Hungary	569.5	67.7	166.3	–	13.2
Poland	1 144.2	20.4	576.7	0.0	–
Romania	187.3	7.3	69.3	10.6	0.4
Sweden	890.0	229.0	1 634.0	1.0	–
United Kingdom	3 185.1	3 076.9	7 595.0	1 403.0	–
Total EU27	**21 744.3**	**20 327.6**	**29 497.1**	**5 873.5**	**1 070.8**

Other payment instruments include e-money purchase transactions and specific national instruments.
Source: ECB Payment Statistics, September 2009

Table 2: Volume of transactions per payment instrument, in % of Member State total (2008)

Member State	Credit transfers %	Direct debits %	Cards (except e-money cards) %	Cheques %	Other %
Belgium	42.2	11.3	42.4	0.4	3.7
Germany	35.2	50.0	14.1	0.4	0.3
Ireland	23.8	14.7	44.9	16.6	n.a.
Greece	21.8	9.5	50.5	17.2	1.1
Spain	14.5	42.9	39.0	2.5	1.2
France	17.0	19.0	41.2	21.9	0.9
Italy	27.9	14.5	36.6	10.1	11.0
Cyprus	19.5	14.4	35.0	31.1	n.a.
Luxembourg	48.6	10.9	38.7	0.2	1.7
Malta	17.6	3.7	36.1	42.6	n.a.
Netherlands	31.1	25.8	39.4	n.a.	3.7
Austria	44.9	37.1	16.1	0.1	1.7
Portugal	9.8	13.7	64.1	12.4	0.1
Slovenia	53.2	12.9	33.8	0.1	n.a.
Slovakia	52.9	25.4	21.8	0.0	n.a.
Finland	40.6	4.5	54.9	0.0	n.a.
Euro area sub-total:	**27**	**30**	**33**	**8**	**2**

Bulgaria	81.2	0.6	18.2	n.a.	n.a.
Czech Republic	n.a.	n.a.	63.4	0.1	36.5
Denmark	20.1	13.5	65.4	1.0	n.a.
Estonia	37.6	6.7	55.7	0.0	0.0
Latvia	54.8	2.0	42.8	0.0	0.4
Lithuania	52.3	5.2	42.4	0.1	n.a.
Hungary	69.7	8.3	20.4	n.a.	1.6
Poland	65.7	1.2	33.1	0.0	n.a.
Romania	68.1	2.6	25.2	3.8	0.2
Sweden	32.3	8.3	59.3	0.0	n.a.
United Kingdom	20.9	20.2	49.8	9.2	n.a.
Total EU27	**28**	**26**	**38**	**7**	**1**

Other payment instruments include e-money purchase transactions and specific national instruments.
Source: ECB Payment Statistics, September 2009

Table 3: Value of transactions per payment instrument, in EUR billions (2008)

Member State	Credit transfers	Direct debits	Cards (except e-money cards)	Cheques	Other
Belgium	4 447.0	64.0	53.0	50.0	2.7
Germany	61 898.0	11 330.0	152.0	408.0	0.2
Ireland	199.0	106.0	26.0	797.0	–
Greece	654.0	10.0	9.0	456.0	1.1
Spain	10 681.0	860.0	102.0	778.0	360.0
France	19 446.0	1 054.0	332.0	2 070.0	473.0
Italy	7 364.0	345.0	137.0	1 093.0	825.0
Cyprus	351.0	4.0	3.0	43.0	–
Luxembourg	1 130.0	7.0	4.0	–	–
Malta	19.0	0.2	0.6	15.0	–
Netherlands	5 803.0	301.0	87.0	–	0.5
Austria	2 404.0	308.0	21.0	17.0	1.7
Portugal	1 061.0	35.0	31.0	355.0	11.0
Slovenia	278.0	2.0	4.0	0.1	–
Slovakia	1 294.0	542.0	5.0	0.1	–
Finland	4 573.0	45.0	36.0	26.0	–
Euro area sub-total:	**121 602.0**	**15 013.2**	**1 002.6**	**6 108.2**	**1 675.2**

Bulgaria	137.0	0.2	1.0	–	–
Czech Republic	n.a.	n.a.	10.0	1.5	–
Denmark	634.0	81.0	47.0	29.0	–
Estonia	167.0	1.6	3.0	–	–
Latvia	519.0	0.3	2.0	–	–
Lithuania	538.0	0.7	2.0	0.8	–
Hungary	1 595.0	2.2	5.0	–	7.0
Poland	876.0	4.2	19.0	–	–
Romania	1 750.0	1.8	4.0	24.0	1.8
Sweden	1 154.0	47.0	74.0	7.0	–
United Kingdom	102 823.0	1 174.0	512.0	1 886.0	–
Total EU27	**231 795.0**	**16 326.2**	**1 681.6**	**8 056.5**	**1 684.0**

Other payment instruments include e-money purchase transactions and specific national instruments.
Source: ECB Payment Statistics, September 2009

Table 4: Value of transactions per payment instrument, in % of Member State total (2008)

Member State	Credit transfers %	Direct debits %	Cards (except e-money cards) %	Cheques %	Other %
Belgium	96.3	1.4	1.1	1.1	0.1
Germany	83.9	15.4	0.2	0.6	0.0
Ireland	17.6	9.4	2.3	70.7	n.a.
Greece	57.9	0.9	0.8	40.4	0.1
Spain	83.6	6.7	0.8	6.1	2.8
France	83.2	4.5	1.4	8.9	2.0
Italy	75.4	3.5	1.4	11.2	8.4
Cyprus	87.5	1.0	0.7	10.7	n.a.
Luxembourg	99.0	0.6	0.4	n.a.	n.a.
Malta	54.6	0.6	1.7	43.1	n.a.
Netherlands	93.7	4.9	1.4	n.a.	0.0
Austria	87.4	11.2	0.8	0.6	0.1
Portugal	71.1	2.3	2.1	23.8	0.7
Slovenia	97.9	0.7	1.4	0.0	n.a.
Slovakia	70.3	29.4	0.3	0.0	n.a.
Finland	97.7	1.0	0.8	0.6	n.a.
Euro area sub-total:	**84**	**10**	**1**	**4**	**1**

Bulgaria	99.1	0.1	0.7	n.a.	n.a.
Czech Republic	n/a	n.a.	87.0	13.0	n.a.
Denmark	80.2	10.2	5.9	3.7	n.a.
Estonia	97.3	0.9	1.7	n.a.	n.a.
Latvia	99.6	0.1	0.4	n.a.	n.a.
Lithuania	99.4	0.1	0.4	0.1	n.a.
Hungary	99.1	0.1	0.3	n.a.	0.4
Poland	97.4	0.5	2.1	n.a.	n.a.
Romania	98.2	0.1	0.2	1.3	0.1
Sweden	90.0	3.7	5.8	0.5	n.a.
United Kingdom	96.6	1.1	0.5	1.8	n.a.
Total EU27	**89**	**6**	**1**	**3**	**1**

Other payment instruments include e-money purchase transactions and specific national instruments.
Source: ECB Payment Statistics, September 2009

Annex 6: Overview of national SEPA migration plans

Table 1: National target dates by Member State

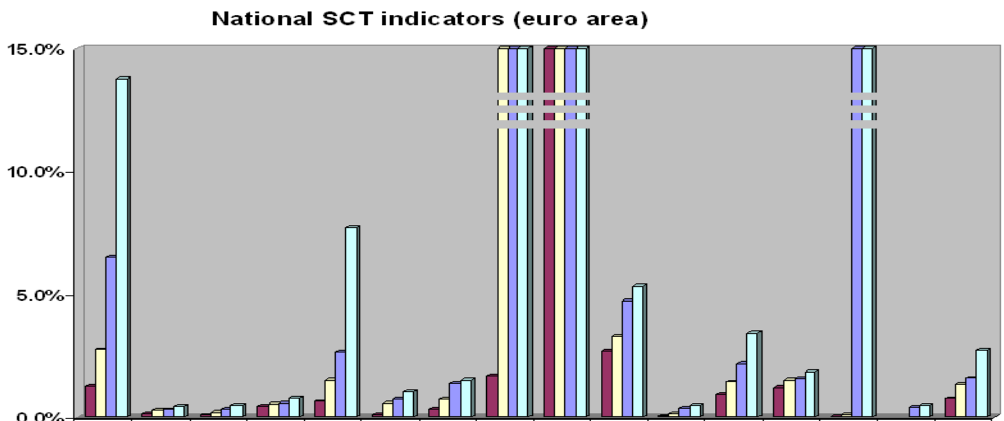
Country	Target date	Detailed comments
Euro area		
Austria	No	
Belgium	Yes	– Credit transfers: end 2010 – Direct debits: end 2012
Cyprus	Yes	– Credit transfers: end 2012. – Direct debits: November 2014
Finland	SCT: yes SDD: under discussion	– Credit transfers: end 2010
France	Conditional	Will only be fixed once 'critical mass' has been reached for SEPA instruments
Germany	No	
Greece	Partly	– Credit transfers: No target date – Direct debits: implicit once transposition of PSD implemented
Ireland	Under discussion	
Italy	No	
Luxembourg	SCT: completed SDD: No	
Malta	SCT: yes SDD: n.a.	– Credit transfers: end 2010. – Direct debits: no legacy direct debit scheme existing
Netherlands	Under discussion	
Portugal	Conditional	Will only be fixed once 'critical mass' has been reached for SEPA instruments
Slovakia	Partly	– Credit transfers: end 2012 – Direct debits: under discussion
Slovenia	Conditional	Will only be fixed once 'critical mass' has been reached for SEPA instruments
Spain	Under discussion	
Non-euro area		**(for payments in euros)**
Bulgaria	SCT: no SDD: n.a.	– Direct debits: no legacy direct debit scheme existing
Czech Republic	No	
Denmark	No	
Estonia	Under discussion	Depending on accession to euro
Hungary	No	
Latvia	Under discussion	Depending on accession to euro
Lithuania	No	
Poland	No	
Romania	SCT: conditional SDD: no	Will only be fixed once 'critical mass' has been reached for SCT
Sweden	SCT: partly completed SDD: n.a.	– Credit transfers: done for cross-border euro payments, but no target date for domestic euro payments – Direct debits: no legacy direct debit scheme in euro existing
United Kingdom	SCT: partly SDD: n.a.	– Credit transfers: November 2010 for domestic euro direct credit scheme operated by Bacs – Direct debits: no legacy direct debit scheme existing

Source: European Commission, 2009

Annex 7: SEPA migration progress in the Member States

The tables shown below present the share of SEPA Credit Transfer (SCT) transactions as a percentage of the total volume of all credit transfer transactions initiated in a country (i.e. credit transfer in the legacy format as well as SCTs). They assess the situation in all euro area countries (below) and some non-euro area EU countries (next page, euro transactions only). The indicators are compiled semi-annually by the NCBs and the first set of results refers to the first half of 2008; the last for the second half of 2009.

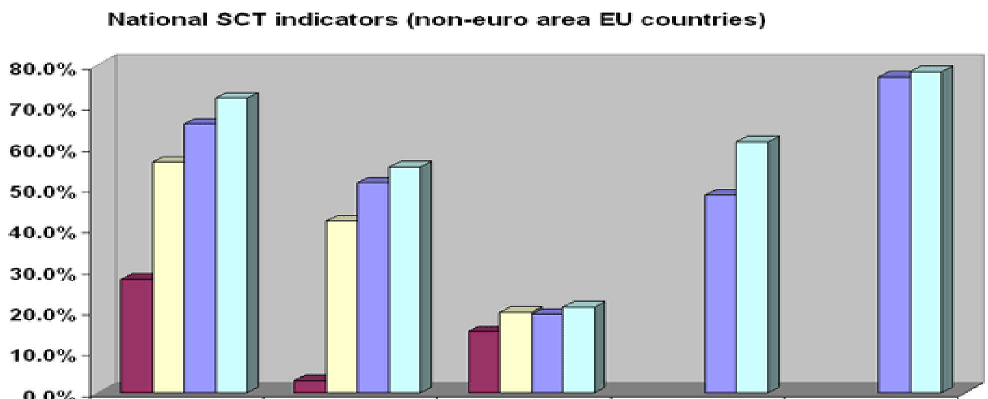
Graph 1: National SCT indicators, euro area



	BE	DE	IE	GR	ES	FR	IT	CY	LU	MT	NL	AT	PT	SI	SK	FI
SCT indicator (H1 2008)	1.2%	0.1%	0.1%	0.4%	0.6%	0.1%	0.3%	1.7%	84.8%	2.7%	0.0%	0.9%	1.2%	0.0%		0.8%
SCT indicator (H2 2008)	2.8%	0.3%	0.2%	0.5%	1.5%	0.6%	0.7%	29.9%	85.8%	3.3%	0.2%	1.4%	1.5%	0.1%		1.4%
SCT indicator (H1 2009)	6.5%	0.3%	0.3%	0.6%	2.7%	0.8%	1.4%	60.0%	85.8%	4.7%	0.4%	2.2%	1.6%	24.6%	0.4%	1.6%
SCT indicator (H2 2009)	13.8%	0.4%	0.5%	0.8%	7.7%	1.0%	1.5%	56.6%	89.9%	5.3%	0.5%	3.4%	1.9%	40.0%	0.5%	2.7%

Source: European Central Bank

Graph 2: National SCT indicators, non-euro area EU countries



	DK	LV	EE	SE	UK
SCT indicator (H1 2008)	27.7%	2.9%	14.8%		
SCT indicator (H2 2008)	56.3%	41.9%	19.6%		
SCT indicator (H1 2009)	65.5%	51.2%	19.1%	48.2%	77.1%
SCT indicator (H2 2009)	71.9%	55.1%	20.8%	61.3%	78.4%

Source: European Central Bank

Lessons to be drawn for setting an end-date for migration:

– SEPA migration progress at the national level demonstrates that only well planned migration effort, centrally organised and strongly supported/lead by Member State authorities, with binding deadlines assigned for all stakeholders results in a quick adoption of SEPA payment instruments (See national migration plans, available at ECB website).

– The role of public administrations should be particularly underlined. For example, quick increases in the volume of SCT transactions in Belgium, Spain and Slovenia in the second half of 2009 are largely due to the migration of certain types of state payments to the new SEPA instruments.

– Large utility companies (telecoms, energy and water providers etc) could also play an important role in promoting new pan-European payment format, both by increasing volumes and by raising awareness on the demand side.

– In addition, active support SEPA payment formats by banks (e.g. automatic conversion of all permanent orders into SCT and SDD) leads to additional increases in the volume of SEPA payments. This is in particular visible for euro payments in the non-euro area countries.

Annex 8: Reasons for slow migration to SEPA

The problem of slow migration results from a number of different drivers, with uncertainty behind the completion of SEPA being the root cause.

Root cause: Uncertainty of SEPA completion and phase-out of legacy products

Based on the original EPC timetable, SEPA was launched with the objective that by end-2010 a critical mass of payments would migrate to the SEPA schemes developed by the EPC. It has never been defined in strict terms what constituted this 'critical mass'. Nor has it been determined by when so called 'legacy' products, i.e. the national payment instruments preceding SEPA, should be phased-out and completely replaced by SEPA instruments. In any case, taking into account the current actual migration rate, the original objective of the EPC has now become unrealistic.

Market participants facing the potential decision whether to migrate to SEPA products therefore harbour reasonable doubts as to if and when a critical mass for SEPA will be attained and whether SEPA instruments will indeed be the only available choice of credit transfer and direct debit instruments at a later stage. The lack of a common time horizon for complete migration to SEPA credit transfers and direct debits and a missing 'sunset' for corresponding legacy instruments encourages market players on the supply and demand side to delay migration efforts.

Reluctance to invest: first mover disadvantage

PSPs (Payment Service Providers) deciding to market the new SEPA instruments early and actively have a major first mover disadvantage in the current environment. During the transitional period when customers have not yet fully migrated to SEPA these PSPs still have to support duplicate costs, i.e. costs for both the existing payment systems as well as the new SEPA system. With a decision to close down legacy systems unilaterally PSPs risk alienating or even losing their customers, if a large share of other payment service providers still offers the traditional payment systems.

The first mover disadvantage is, however, not limited to PSPs. Payment services users, in particular businesses, also incur duplicate cost as long as their trading partners have not fully migrated to SEPA. As there is no clear signal from the market (through significantly better SEPA product terms and conditions) or from the regulator (establishing a formal end-date), investment into new SEPA instruments resulting in duplicate costs are difficult to justify, as the savings from the new payment instruments cannot be realised without significant migration by other stakeholders.

Perceived lack of predictability and clarity as regards the long term business model

In the event that the perceived lack of predictability and clarity persists in the market it is not unlikely that payee banks may not be able to offer cross-border services as quickly and as efficiently as they would otherwise. The direct debit market is a market with a relatively small number of payee banks and a high number of payer banks. This majority has allowed payer banks in several countries to impose to the banking community a business model based on a MIF per transaction flowing from the bank of the payee to the bank of the payer. In the absence of clear rules about the economic model, payee banks may adopt a 'wait and see' approach pending the outcome of (national or European) proceedings on the compatibility of collective financing arrangements with EU competition rules.

The perceived lack of clarity may therefore lead to a slower take up of SEPA direct debit services by banks and providers of direct debit payment services. This risk of a slower take up as a consequence of a perceived lack of clarity has in particular been highlighted by the European Central Bank ('ECB'). In its 7th SEPA Progress Report published on 21 October 2010[89] the ECB signals that although the launch of SDD was a major achievement, the figures on the take up of the system in the first few months after the launch have been fairly modest, amounting to well below 1% of transactions. Identifying the long term economic model as a remaining stumbling block, the ECB notes that the Regulation on cross-border payments only provides for a temporary solution until 1 November 2012. The ECB adds that the financial industry expects the European Commission to provide guidance on the long term charging principles for SDD which are compatible with competition rules.

Missing incentive for PSPs to develop SEPA products fully meeting user needs

Implementing SEPA does not only represent a significant challenge for the supply side but also for the demand side of the payments market. As a consequence, users need a compelling reason to move away from legacy to new SEPA products as long as the latter are still available. Only SEPA products which fully meet user needs or are offered at a cheaper price than corresponding legacy instruments provide such a compelling reason.

As long as there is no certainty about SEPA completion PSPs can continue to offer existing legacy products to their customers and do not have a sufficient incentive to develop and actively market SEPA products which meet all customer requirements.

Current examples of suboptimal user experience in the area of credit transfers include online banking applications which offer easier access to legacy credit transfers than to SCT, or in some cases, limited remittance fields in the SCT message format[90]. User concerns for the SDD mainly relate to the management, security, notification and checking of direct debit mandates, which entitle the creditor to debit the debtor's account[91]. These concerns can be however fully allayed by better communication on part of the banks and some changes to the SDD rulebooks as well as through a possible regulatory intervention.

Fragmented demand side and low level of SEPA awareness

Like many network industries, the market for payment services is characterised by the demand side being much more fragmented than the supply side. This is driven by the significantly higher number of market participants on the demand side, and by the larger degree of heterogeneity on this side of the market. Two implications arise from this situation.

First, there is a significant difficulty and complexity for the demand side to organise concerted action placing pressure on a nearly united supply side with relatively fewer players. This effect is exacerbated by the absence of widespread SEPA information and marketing

89 7th Progress report on SEPA, p. 42, http://www.ecb.int/pub/pdf/other/singleeuropaymentsarea201010en.pdf, p. 17.
90 In other cases the SCT has significantly expanded the existing remittance field.
91 These concerns are currently being addressed by the EPC.

campaigns from the supply side. As a result, market players on the demand side are often not even aware of SEPA and the potential benefits it could bring to them.

Second, the substantial overall economic gain for the demand side is a result of aggregating benefits which are spread over a very large number of users. Especially for consumers and SMEs, these benefits are therefore more limited on an individual basis. This effect is magnified by strong consumer inertia regarding basic payment services. The potential benefits of pan-European payment instruments may at first sight appear less tangible for consumers than the change of habit which the new payment instruments require, i.e. using IBAN/BIC account identifiers, particularly if their bank has not developed user-friendly conversion facilities.

In conclusion, given the above analysis, there is a tendency for both sides of the market to wait for movement on SEPA migration by the other side, e.g. banks wait for greater customer interest reinforced by public measures; while users wait for a compelling product offer supported by more intense SEPA marketing by banks. While banks could seek to force the migration issue by collectively withdrawing existing payment products, they have concerns to do so because of a possible negative reaction by competition authorities. The end-result is gridlock which can be broken by a regulatory intervention.

Annex 9: National differences of payment characteristics

The following table presents some of the principal characteristics of the national payment systems in the EU and illustrates some of the differences and fragmentation of the EU payments market.

Table 1: Selected differences between national payment systems

Member State	Main account identifier in use for domestic payments	Further account identifiers which can be used for domestic payments	Main bank identifier in use for domestic payments	Further bank identifiers which can be used for domestic payments	Main interbank format in use for domestic payments	Further interbank formats which are in use for domestic payments	Are domestic credit transfer (CT) and/or direct debit (DD) schemes in use?	If domestic DD scheme are in use: i) how is the mandate handled (Debtor driven Mandate Flow and/or Creditor driven Mandate Flow)	ii) Is mandate related in-formation transmitt ed before the first debit	iii) Has the migration from legacy to SEPA mandates been solved on national level	CT and/or DD instruments which for technical reasons might be difficult to migrate to SCT and/or SDD (and their estimated market share)
AT	BBAN*	IBAN	National bank code	BIC	EDIFACT	ISO20022, SWIFT MT	CT, DD	CMF, DMF	no	yes	Payments with truncated image (17 %)
BE	BBAN	IBAN	National bank code	BIC	Proprietary	SEPA CT	CT, DD	DMF	Mandate is stored by debtor bank	yes (by law)	none
CY	BBAN IBAN for government	IBAN	National	BIC	National electronic format	SWIFT MT SEPA	CT	No national direct debit scheme			
FI	BBAN		Bank code in the account number		proprietary formats		CT, DD	x	yes	Banks will be offering e-invoicing instead	Old domestic payments system will be discontinued The banks will be using STEP2 services
FR	BBAN	IBAN	National bank code	BIC	National electronic format	ISO 20022	CT/DD	CMF	no	yes (by law)	Specific legacy instruments: TIP, téléréglement (0.90 % of cashless payment transactions)

DE	BBAN	IBAN (not in DTA format)	Bank Sort Code (Bankleit-zahl)	BIC (not in DTA format)	DTA	SWIFT, EDIFACT formats in rare cases	CT, DD (two procedures)	CMF (collection authorisation procedure, similar to SDD Core) DMF (debit authorisation procedure, comparable to SDD B2B)	no	no	Card transaction collection procedure, handled via domestic DD. Paperless cheque collection procedure for low-value cheques (BSE procedure), Image-based cheque collection procedure (ISE procedure) for large-value cheques, handled similar to domestic DD. Estimated share: 15 % of domestic transactions. Analytical work has been taken up to find alternative processing solutions in the long run.
EL	IBAN	National identifier	BIC	National code number (3 digits)	ISO20022	Proprietary	CT, DD	CMF DMF (AOS)	yes	Yes, to be finalised with the transposition of the PSD	Yes. Card transactions collection, when the card is not linked to an account, are processed with CT without IBAN (1.4 %)

IE	BBAN	none	National Sort Code (NSC)	none	Bi-lateral exchange of files between members banks based on an agreed technical format. Similar to the UK format (BACS).	Bi-lateral exchange of files between members banks based on an agreed technical format. Similar to the UK format (BACS).	yes (both)	There are 2 direct debit schemes within IRECC, Direct Debit (DD) and Direct Debit Plus (DD+). In DD, a paper mandate is completed by the debtor and returned to the originator, who then forwards it to the debtor's bank, where it is stored. In DD+, the debtor agrees to payment by direct debit (the agreement can be verbal, written or on-line), mandate details are verified and stored by the originator.	no	yes, through legislation	none
IT	IBAN	none	National bank code	none	Proprietary	none	CT, DD	CMF/DMF	yes	yes	**MAV –** Payment on notice and bank form: credits are collected by notifying the debtor to pay – at any bank – using a special form sent to him by the creditor's bank. **Ri.Ba.** – Automated Bank Receipt – non pre-authorized direct debit via electronic receipt issued by the creditor. (33 %)
LU	IBAN	–	BIC	–	ISO20022	Nationally agreed format for DD	DD (without clearing and settlement mechanism)	DMF	mandate is stored by debtor bank	no (contractual issue)	–
MT	IBAN	–	BIC (8-digit)	Bank Sort Code	MT103	–	No CT and DD schemes	No national direct debit scheme			None for technical reasons.

NL	BBAN	NA (domestic payments is interpreted as payments with legacy instruments)	N.A. (via BBAN)	NA	Betopd		Netherlands	BBAN	NA (domestic payments is interprete d as payments with legacy instrumen ts)	NA (via BBAN)	NA
PT	BBAN	IBAN	National Bank Code	BIC	Proprietary	ISO 20022	CT, DD	DMF and CMF	yes	yes	none
SI	IBAN	none	National bank code	BIC	ISO20022, Proprietary	SWIFT MT (large payments)	CT, DD	DMF	no	In principle yes	none
SK	BBAN	–	National bank code	–	National format	-	CT, DD	DMF	–	not yet	–
ES	BBAN	IBAN*	NRBE (National Bank Code assigned by Banco de España)	BIC*	Proprietary format	SEPA standards*	CT/DD	CMF	no	yes	none
BG	IBAN		BIC		SWIFT MT Proprietary		CT and DD in national currency BGN	DMF	no		
CZ	BBAN	none	National bank code	none	National format	none	Yes CT and DD	DMF	Not relevant for DMF	no	SIPO DD

DK	BBAN		National bank code		UDUS (national data format)		yes, both	DMF	Yes (before the expiry of a month, PBS notifies debtors about all their direct debits for the following month, including recurrent direct debits)	No (only relevant if Denmark joins the euro area)	No estimates
EE	BBAN	IBAN	National bank code	BIC (in RTGS system which works as a back-up for ESTA)	Proprietary formats	SWIFT MT (in RTGS system which works as a back-up for ESTA)	CT, DD	DMF	yes	no	none However all migration aspects of core instruments have not been mapped yet.
HU	BBAN	none	National bank code	none	Proprietary	none	CT, DD	DMF	yes	No, DD is HUF scheme, no migration is in progress	none
LV	IBAN	IBAN	BIC	BIC	SWIFT MT	ISO20022	CT, DD[1]	CMF, DMF	yes	yes	The impact of SDD are changes in payment habits and the need to update creditor identifier
LT	IBAN	–	BIC	–	Proprietary format	–	CT, DD (no formal schemes)	DMF	–	yes	Some specific national instruments: – debit payment instructions for agricultural production – debit payment instructions according to executive documents (negligible market share)

PL	BBAN (based on IBAN format)/IBAN	none	National bank code	BIC	Proprietary EDIFACT	ISO20022, SWIFT MT	CT, DD	BMF	yes	no	Tax and social security payments (appr. 5 %)
RO	IBAN	IBAN	BIC	BIC	Proprietary (XML-based)	ISO 20022	CT and DD in national currency (RON)	DMF	yes	NA	NA
SE	Bank account number	Bankgiro-number. However, it is NOT an account number. It is a service which makes it possible to connect a BG name (no) to several accounts. Plusgiro-number.	Swedish, domestic bank clearing number	NA	Domestic Swedish bank-formats, SWIFT-formats	NA	Yes, both CT and DD for payments in **SEK**	Creditor driven	yes	NA – no euro DD in Sweden	Yes, Bankgiro numbers are not bank account specific and are therefore difficult to migrate to SCT. However, these transactions are mainly made in SEK and not for migration to SEPA.
UK	BBAN	IBAN	UK Sort Codes or	none	Bi-lateral exchange of files between members banks based on an agreed technical format.		yes – both	The debtor can either complete a paper/electronic mandate or provide the details verbally. Confirmation of the mandate is then provided to the debtor	no	NA	NA

Source: ECB / ESCB / National Central Banks, February 2010

Annex 10: Overview of national payment systems in the EU

The following table lists national payment systems currently in use in the different EU Member States.

Table 1: Principal national retail payment systems (RPS) in the EU

Member State	Payment system	Operator	Processed currency	Links with other RPS (if yes, which ones)	Participants from other countries (if yes, which countries)	Processed SEPA formats (SCT and/or SDD)	Processed legacy formats (credit transfer and/or direct debit
Austria	STEP.AT	Oesterreichische Nationalbank	euro	RPS, BI-COMP/ICBPI, Equens	CZ, DE, HU, MT, SK	SCT, SDD (via EBA STEP2)	EDIFACT (CT, DD) SWIFT MT (CT)
Belgium	CEC	National Bank of Belgium	euro	none	none	SCT only	proprietary CT in CIRI01 format proprietary DD in DOM80 format
Bulgaria	BISERA BISERA7-EUR BORICA SEP	Bankservice AD Bankservice AD BORICA AD SEP BULGARIA AD	lev (BGN) euro lev (BGN) lev (BGN)	no no no no	no no no no	no SCT, SDD no no	SWIFT MT (CT, DD)
Cyprus	Cyprus Cheques Clearing House JCC Transfer	Committee of CCCH JCC Ltd (interbank joint venture co)	euro euro	no no	Open to Cypriot branches of foreign banks Open to Cypriot branches of foreign banks	N/A for cheques no / no intention	N/A for cheques National electronic format
Czech Republic	CERTIS	Česká národní banka	koruna (CZK)	none	none	no	yes – CT, DD
Denmark	Sumclearingen euro Sumclearingen DKK	PBS (both)	euro krone (DKK)	no	no	no	EDIFACT UDUS (national data format)
Estonia	ESTA	Bank of Estonia	kroon (EEK)	–	–	–	Proprietary formats
Finland	POPS PMJ	individual banks	euro euro	no	Sweden	Not compliant	urgent credit transfers and cheques, CT, DD, repetitive payments, POS and bank card settlements

France	CORE	STET	euro	none	No foreign direct participant Indirect participants from the EU: BE, DE, ES, IT, LU, NL, PT, SE, UK	SCT	N/A All transaction data between participants is exchanged in XML ISO 20022 format
Germany	RPS	Deutsche Bundesbank	euro	EBA STEP2, STEP.AT of OeNB, Iberpay	Yes, but only indirect ones	SCT, SDD Core and SDD B2B	DTA (CT, DD including card collections, cheque collections) SWIFT MT 103+ (CT)
Greece	DIAS ACO	DIAS SA Bank of Greece	euro euro	EQUENS none	CY, UK, FR, DE (direct participants) CY, FR, UK, DE, IE	SCT, SDD none	Proprietary format (CT,DD) Cheques
Hungary	ICS ('BKR')		forint (HUF)	no links, (the operator of ICS acts (jointly with the CB) as a service provider for indirect STEP2 membership via the CB)	none	none (only HUF payments are processed)	proprietary ('GIRO') format
Ireland	IPCC IRECC	Irish Paper Clearing Company Limited Irish Retail Electronic Payments Clearing Company Limited	euro euro	none none	none none	none, not SEPA compliant none, not SEPA compliant	Proprietary paper CT, Cheques Proprietary CT, DD
Italy	BI-COMP	Banca d'Italia	euro	Equens, STEP.AT	BE, DE, FR, UK, SM (the country has been intended as that whose code is embedded in the participant's BIC)	SCT, SDD (also via Banca d'Italia's intermediation to EBA STEP2)	CT, DD
Latvia	EKS	Latvijas Banka	lat (LVL), Euro	–	–	–	SWIFT MT (CT)
Lithuania	LITAS-MMS KUBAS	Bank of Lithuania Lithuanian Central Credit Union	litas (LTL) litas (LTL)	Systems LITAS-MMS and KUBAS are linked	no no	no no	Proprietary format (CT, DD) Proprietary format (CT, DD)
Luxembourg	–		–				

Malta	Malta Clearing House (MCH)	The Central Bank of Malta	euro	no	no	N/A Only clearing of local cheques.	N/A. Only clearing of local cheques.
Netherlands	ZVS CSS	Equens	euro	VocaLink OeNB DIAS Iberpay ICBPI	UK, NL, DE, BE, LU, SE, FI, EL, IT	SCT SDD	German CT DD Dutch CT DD
Poland	ELIXIR EUROELIXIR	Krajowa Izba Rozliczeniowa SA	zloty (PLN) euro	EBA Clearing (via National Bank of Poland)	N/A	SCT	Proprietary (CT, DD)
Portugal	SICOI SLOD[92]	SIBS	euro	EBA XCT, EBA Step-SCT	AT, BE, CH, ES, FR, EL, LU, LV, MT, UK	SCT and SDD (from Nov 2010)	Proprietary (CT and DD)
Romania	SENT	TRANSFOND S.A.	leu (RON)	no	no	no	Proprietary, XML-based (CT, DD, truncated paper cheques, bills of exchange and promissory notes)
Slovakia	EURO SIPS	Národná banka Slovenska	euro	–	–	no	CT, DD
Slovenia	SEPA IKP SEPA EKP Collection Centre	Bankart d.o.o. Bankart d.o.o. Bankart d.o.o.	euro euro euro	no yes (EBA STEP2-SCT) no	no no no	SCT SCT no	no no Proprietary (CT, DD)
Spain	SNCE	Iberpay (private company owned by banks)	euro	Equens, RPS STEP2 (as technical facilitator for the direct participation of Banco de España)	no	SCT / SDD	Proprietary format
Sweden	Bankgirot Dataclearingen Privatgirot Plusgirot	Bankgirocentralen BGC AB Bankgirocentralen BGC AB Privatgirot AB Nordea	krona (SEK);euro krona (SEK) krona (SEK) krona (SEK);euro		US, DK, NO, FI, BE, UK	no no no no	CT, DD (only SEK) CT CT CT, DD (only SEK)
United Kingdom	BACS Cheque and Credit Clearing	Bacs Company Cheque and Credit Clearing Company	Sterling (GBP) Sterling (GBP)	N/A N/A	no no	N/A N/A	Direct Debit/Credit transfer Credit transfer

Source: ECB / ESCB / National Central Banks, February 2010

92 SLOD ceased operations in February 2009.

The European Commission report on the retail banking sector inquiry of 2007 has assessed the operating efficiency of existing European clearing and settlement infrastructures[93]. The ratio of operating costs to the total number of transactions by payment system has been calculated for each system that was able to provide operating cost data. The data showed huge variability across schemes, ranging from operational cost of EUR 0.01 to EUR 0.28 per transaction. The study also confirmed that payments processing is subject to significant economies of scale: there was a strong correlation between the operating cost per transaction on one side, and the underlying transaction volume on the other side.

93 For more information see *Report on the retail banking sector inquiry*, Staff Working Document, European Commission, 2007, http://ec.europa.eu/competition/sectors/financial_services/inquiries/sec_2007_106.pdf.

Annex 11: Prices of retail bank account services in the EU

Table 1: Average prices for bank account services in the EU in 2007 (four consumer profiles, prices in euro/year) and average number of banking operations per capita

Member State	Payment service user profile (average prices in EUR/year)				Number of payment transactions per capita (yearly)
	Average	Basic	Passive	Active	
Austria	140.47	83.95	99.54	197.46	175
Belgium	58.15	16.28	29.05	82.07	132
Bulgaria	26.94	9.30	17.14	42.83	6
Cyprus	84.59	48.74	6.52	184.99	65
Czech Republic	95.37	54.81	39.65	156.52	59
Denmark	74.27	38.91	37.92	128.41	229
Estonia	50.51	46.98	25.57	93.08	96
Finland	104.42	94.04	44.65	206.56	268
France	154.11	91.21	91.35	232.15	217
Germany	89.13	78.92	62.85	114.71	129
Greece	53.98	45.06	14.81	111.67	11
Hungary	76.20	64.08	28.39	144.42	48
Ireland	81.85	37.17	56.40	118.39	84
Italy	253.14	143.19	134.99	401.72	48
Latvia	115.24	107.33	63.26	192.28	52
Lithuania	34.76	14.69	11.20	112.92	43
Luxembourg	56.64	25.64	40.37	95.99	121
Malta	71.85	45.38	53.21	99.47	52
Netherlands	45.95	28.85	30.13	55.60	193
Poland	73.21	50.55	45.97	114.01	56
Portugal	44.89	13.19	26.01	81.97	119
Romania	82.59	69.79	30.28	141.90	11
Slovakia	73.68	55.59	44.49	125.08	45
Slovenia	100.40	70.13	43.50	200.76	125
Spain	178.21	134.06	104.72	303.57	103
Sweden	61.84	53.35	25.16	128.21	165
United Kingdom	103.20	28.34	94.99	111.40	225
EU27	111.62	61.47	74.41	159.18	130

Four consumer usage profiles are identified in the EU, based on the intensity of usage and in relation to payment preferences (average, active, passive and basic user). Depending on the usage profile, a specific mix of payment instruments (credit transfers, direct debits, payment cards) is assumed.
Average user profile corresponds to the entire population of current account holders, providing an understanding of how a random individual from the relevant population behaves;
Active user profile comprises the top 1/3 users when individuals are ordered according to their usage intensities;
Passive user profile comprises the bottom 1/3 users ordered according to usage intensities;
Basic user profile comprises users with a low-cost 'basic account', where the permitted transactions are clearly defined.
Source: Van Dijk Management Consultants study for the European Commission, 2009

The above table outlines the significant price differences for the provision of payment services through a payment account. For example, the average price of a current account for consumers ranges from EUR 253 (country average) in Italy to as low as EUR 27 (country average) in Bulgaria. For active users[94], the difference is even greater: from a maximum of EUR 402 in Italy to a minimum of EUR 43 in Bulgaria. The analysis showed that in absolute terms Austria, France, Italy and Spain are among the most expensive countries for banking services, while Bulgaria, Netherlands, Belgium and Portugal display the lowest price levels. The above price differences cannot be simply explained by disparities in purchasing power across EU Member States. This is demonstrated by the fact that many countries with high per capita GDP have low prices of account services and vice versa.

94 Top third of bank clients in terms of the number of transactions.

Annex 11a: Impacts of prohibiting MIFs per transaction and allowing MIFs for R-transactions

1. QUALITATIVE IMPACTS

Since pan-European direct debit transactions are or will be carried out through (an) entirely new system(s) that will replace a variety of presently existing domestic systems the likely impact of prohibiting per transaction MIFs and conditionally allowing MIFs for R-transactions can only be assessed on the basis of certain qualitative and quantitative impacts which can be expected. The present annex contains an assessment of a number of qualitative circumstances influencing the impact o a prohibition of per transaction MIFs.

– Under the new SEPA DD system, payers' banks will face lower costs as compared to national direct debits as payees will handle the mandate

Under direct debit, the payer gives a mandate to the payee to request the payment of a (often recurring) transaction. However, in the framework of the SEPA direct debit system the mandate given by the payer will no longer be managed by the payer's bank but by the payee (the creditor company) itself. This is likely to have a downward impact on costs presently incurred by payers' banks as SEPA DD thus shifts a share of these from the banking side to the payee. In turn, this might call into question at least partly the necessity of financing models currently in place, based on a different mandate handling and related features of direct debit transactions.

– Under a transparent charging system, payees can incentivise the use of SEPA DD through rebates and thereby reduce the effective consumer charges

A direct rebate at the user-level is more effective and efficient than an indirect incentive in the form of a possible reduction of consumer fees charged by the payer's banks that could result from its revenues deriving from collectively agreed inter-bank fees.

Concrete examples of the existence of rebates, pointing out to substantial rebates being given to payers by payees for the use of direct debit have been provided in the course of the consultation on the Commission Working Document by some users, and this fact has also been acknowledged by some banking respondents.

A rebate provided directly by payees to reward the use of direct debit reduces the effective price paid by consumers.

– The costs to the overall system will no longer be inflated through MIFs, as MIFs are passed through a number of players who may all add their respective mark-ups

In case the payer bank charges the payee bank an interchange fee of α the payee bank will pass on this fee to the payee, possibly also adding a mark up β. In turn, the payee will pass on this fee of $\alpha + \beta$ to the payer, also possibly together with a mark up λ. As a consequence, for each direct debit transaction, the overall costs to the direct debit system may be increased by the mark ups from the payee bank and from the payee respectively β and λ, which are passed on to the payer, for instance through increased overall retail prices.

In contrast, if the payer bank's costs of providing the direct debit service are charged directly to the payer, they are not subject to possible mark ups by the other parties in the payment chain.

– Conclusions on impact of prohibiting MIFs per transaction and conditionally allowing MIFs for R-transactions

On the basis of the analysis laid out above, MIFs per transaction are unlikely to achieve the goals of efficient use of direct debit payments. MIFs per transaction constitute a restriction by object under Article 101 TFUE as they reduce competition between payee banks on the fees they pay to payer banks, to the detriment of companies, whilst inflating the costs to the overall system as MIFs are being passed through with successive additional mark ups to all parties down the payment chain, until the final consumer.

In terms of possible efficiencies, the available data show that there does not appear to be a correlation between the existence of (high) MIFs and (low) consumers' fees for using direct debit or between the existence of (high) MIFs and (low) bank account fees for consumers. As a result, one cannot infer a link neither between the existence (and level) of a MIF per transaction and consumers' fees for using direct debit nor between the existence (and level) of a MIF per transaction and bank account fees for consumers.

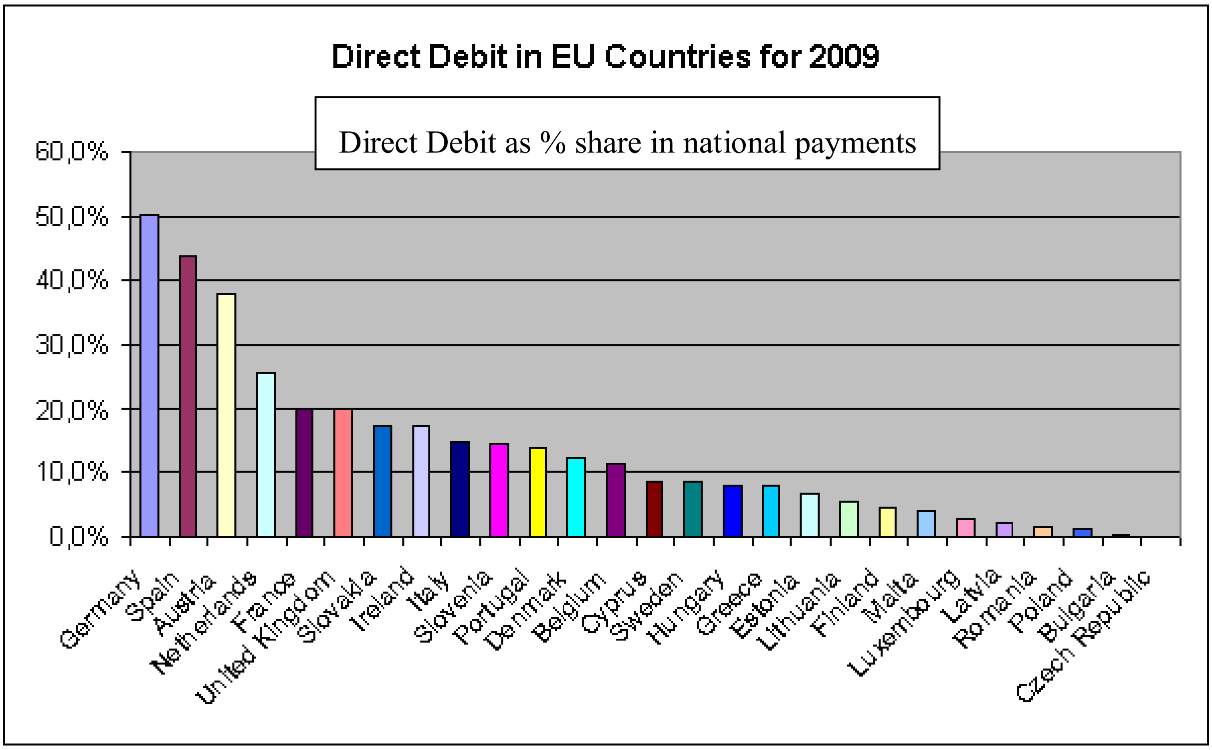
On that basis, alternative business models to MIF per transaction under which the payer is charged directly, without being subject to possible mark ups, would appear both more efficient in terms of the means of payment used and in terms of competition for companies and consumers, as the latter would be faced with a transparent price signal on the basis of which efficient choices can be made. Under a transparent charging system, a direct rebate at the user-level reducing the effective price paid by consumers is more effective and efficient than a (possible) indirect incentive in the form of a possible reduction of consumer usage fees or current account fees charged by the payer's banks.

2. SEPA DIRECT DEBIT: CORRELATION BETWEEN EXISTENCE OF A MIF PER TRANSACTION AND HIGHER USAGE OF DD

There does not seem to be a correlation between the existence of a MIF per transaction and a higher usage of DD. Any expectation that the elimination of MIFs would lead to lower usage of direct debit does not seem to be corroborated by the existing figures. The available data show that there does not appear to be a correlation between the existence of MIF per transaction and a higher usage of direct debit.

The countries with a MIF per transaction are Spain (3 cents), France (12 cents), Sweden (10 cents), Belgium (2 cents) Portugal (23 cents) and Italy (25 cents). The UK, where no MIF per transaction applies, and France account for approximately the same share of the total direct debits within the EU. As a result, one cannot infer a link between the existence of a MIF per transaction and the usage of DD on that basis.

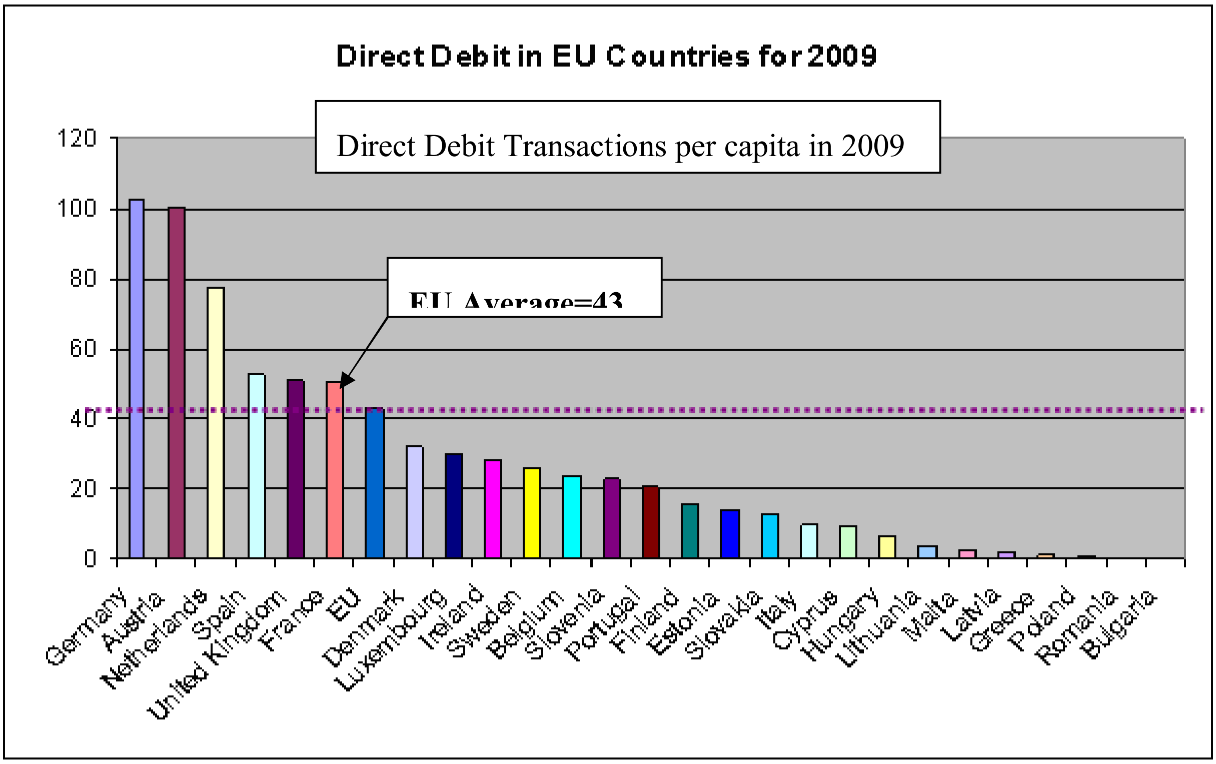
Graph: Share of direct debit transaction in the non-cash payments in the EU in 2009



Source: ECB Blue Book figures

This table shows that in countries such as Germany, Spain, Austria and the Netherlands Direct Debit represents more that 25 % of the non-cash payments (credit transfer, direct debit, cards, cheques).

Graph: Number of direct debit transaction in the EU in 2009 by inhabitants



Source: ECB Blue Book figures

The countries with a MIF per transaction are Spain (3 cents), France (12 cents), Sweden (10 cents), Belgium (2 cents) Portugal (23 cents) and Italy (25 cents). There does not seem to be a correlation between the existence of a MIF per transaction and a higher usage of DD.

3. SEPA Direct Debit: Correlation between existence of a MIF per transaction and general bank account fees for payment services

Since direct debit transactions will be carried out through (an) entirely new system(s) that will replace a variety of presently existing domestic systems the likely impact of prohibiting per transaction MIFs and conditionally allowing MIFs for R-transactions can only be assessed on the basis of certain qualitative and quantitative impacts which can be expected.

The countries with a MIF per transaction are Spain (3 cents), France (12 cents), Sweden (10 cents)[95], Belgium (2 cents) Portugal (23 cents) and Italy (25 cents). The countries with a MIF for R-transactions are Germany (300cents), Austria (500 cents), France (72 cents) and Italy (25 cents).

3.1. Fees for retail payment services

There appears to be no evidence that the existence of MIFs results in lower bank account fees for consumers.

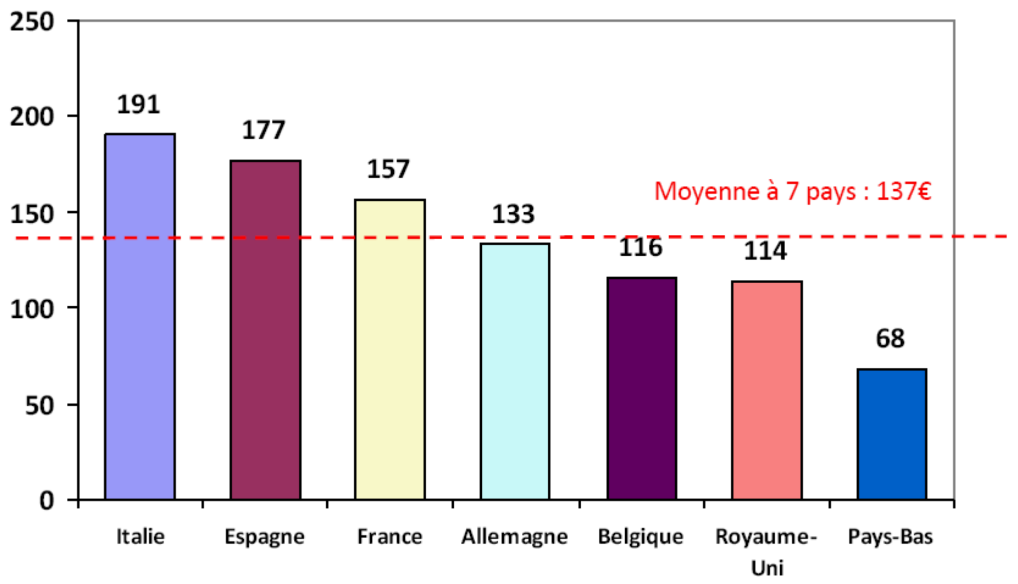
It is difficult to verify claims that abolishing per transaction MIFs is likely to lead to higher fees for consumers. However, on the basis of current information it can be established that

95 The Swedish system is not really comparable because it works with an authorisation request for each transaction (as for card schemes).

there appears to be no evidence that the existence of MIFs results in lower bank account fees for consumers. As shown in the graph and the table below fees for payments services in France, Spain and Italy (which are all countries with a MIF) are among the highest in the EU.

There does not appear to be a correlation between the existence of (high) MIFs and (low) bank account fees for consumers. As a result, one cannot infer a link between the existence (and level) of a MIF per transaction and bank account fees for consumers on that basis.

Montant annuel de frais bancaires acquitté par un consommateur ayant un profil européen moyen de consommation (€)



Source : Bain & Company, 2010

71

Except Portugal, countries with the higher MIFs for direct debit are also the countries where the bank accounts are the most expensive for consumers (the ranking is from the least expensive or 1st to the most or 27th). Hence there is no clear link between high MIFs and low prices of banking services for consumers.

	MIF per transaction	Ranking out of 27 countries, Sanco study revised (Bain and Company 2010)	Number of DD transaction per inhabitant and per year
Belgium	2 cents	5	24
Spain	3 cents	25	53
Sweden	10 cents	3	26
France	12 cents	22	51
Portugal	23 cents	6	21
Italy	25 cents	27	10

4. SEPA DIRECT DEBIT: RELATIONSHIP BETWEEN MIFS CHARGED FOR DIRECT DEBIT AND CONSUMER FEES CHARGED FOR DIRECT DEBIT

There is no clear evidence that consumers are charged less for using direct debit in the countries in which MIFs are in place as compared to the other Member States.

It has been argued that in the absence of MIFs, consumers will be charged more for using direct debit than under the current market conditions.

However, a preliminary analysis of public figures related to the costs charged to consumers for the use of direct debit and to the costs charged to consumers for rejection of a direct debit (2009 data collected under the DG Health and Consumers Study[96]) shows that there is no clear evidence that consumers are charged less in the countries in which MIFs are in place as compared to other Member States. For instance, in spite of MIFs in place in France and Spain, consumers can be charged for using direct debit (in Spain), for installing a direct debit instruction (in France) and in case of a reject of a direct debit (in both countries).

Other data available also show that there does not appear to be a correlation between the existence of (high) MIFs and (low) consumers' fees for using direct debit. As a result, one cannot infer a link between the existence (and level) of a MIF per transaction and consumers' fees for using direct debit on that basis.

4.1. Study carried out on request of DG Health and Consumers regarding prices of current accounts provided to consumers

http://ec.europa.eu/consumers/strategy/docs/prices_current_accounts_report_en.pdf

Table: Overview of fees for the rejection of direct debits for consumers in Europe

Country	Costs for DD in general % / EUR		Costs for rejection of a DD % / EUR	
Belgium	0.0 %	0.00	0.0 %	4.68
France	0.0 %	0.00	0.0 %	9.94
Germany	0.0 %	0.00	0.0%	0.00
Netherlands	0.0 %	0.00	0.0 %	0.00
Ireland	0.0 %	0.10	0.0 %	9.96
Spain	0.267 %	1.05	0.425 %	1.54
United Kingdom	0.0 %	0.00	0.0 %	22.48[97]

Note: The average is based on a non-weighted average of the possible amounts or percentages for each country. In case of a variable price (like in Spain), we have chosen the lowest price.

96 *Data collection for prices of current accounts provided to consumers, Final Report*, available at http://ec.europa.eu/consumers/strategy/docs/prices_current_accounts_report_en.pdf.

97 Exchange rate GBP 1.00 = EUR 1.07.

4.2. Informal survey by Commission services

The Commission services have in the meantime also carried out an informal survey identifying, through internet research and phone calls, the fees applicable to ordinary private customers for a number of major banks in countries with a relatively high number of direct debit transactions, that has delivered the following results:

Spain

– Clients do not pay fees for setting up or closing a direct debit order.

– The modification of the DD order is also a rarely charged service.

– Nevertheless, in Spain most of the fees per transactions are in percentage with a minimum and a maximum threshold. The fees are applicable from a minimum amount of money (the amount of the transaction).

– The same happens with the rejected DD transactions. For R-transactions, a percentage fee is applicable from a minimum amount that varies from EUR 0 to EUR 6.

– The average fee per transaction is 0.29 % from the minimum amount of the transaction that is on average EUR 3.

– The average fee per R-transaction is 0.5 % from the minimum amount of the transaction that on average is EUR 2.21.

Italy

– There are no fees for setting up, modification or R-transactions DD (or at least it in not indicated on the 'tariffs and prices brochure').

– The average fee per transaction is EUR 1.26.

Belgium

– Clients do not pay fees for setting up or closing of DD.

– The fees per transaction vary from EUR 0.05 to EUR 0.5.

– No fees are charged for the modification of DD, except the ING case when they ask for EUR 30 fee if the client asks for a copy of the mandate of DD. If the reason why the consumers want the copy of the DD mandate is justified, then it costs EUR 30. If there is no justified reason for asking for it, it costs EUR 60.

France

– Clients do not pay fees per direct debit transaction or for the modification of the DD order. The DD transactions are often the bills of the national gas and electricity companies (EDF/GDF) or of organisations providing aid and the DD transaction are already included in a classic or ordinary bank account package. In this case the client can pay a bank account annual fees but no for the DD transactions.

– Nevertheless the clients pay a high fee for R-transactions. If the direct debit was rejected due to a lack of funds, the account holder has to pay a fee equal to the direct debit to the bank, with a maximum of EUR 20.00 (no minimum amount neither a threshold). The average R-transaction fee is EUR 20.

– Several banks ask for fees for setting up DD and closing a DD order. Compared with the 2007 figures for which the average was close to 0, the average for setting up a direct debit is now EUR 4.63 for financial institutions (e.g. consumer credit) and EUR 2.52 for 'normal' direct debits.

United Kingdom

– There are no fees per DD transaction charged in UK. Neither for setting up, modifying nor closing a DD order.

– The average fee for an R-transaction is GBP 17.2.

Ireland

– There are fees per DD transaction and the average fee is EUR 0.0975.

– There are no fees charged for the modification or the closure of a DD order.

– Regarding R-transaction, clients must pay in average a EUR 9.76 fee.

Germany

No fees are of application to payers in Germany. It has to be underlined however that even if under German case-law, the payer bank cannot charge the payer for a R-transaction, the payer – if responsible for the R-transaction – would have to face the costs of the interchange fee from the payee, and the possible mark ups by the other parties in the payment chain. The payer bank would pass on the interchange fee to the payee bank. The payee bank would pass on the interchange fee to the payee, possibly adding a mark up. In turn, the payee would pass on the bill to the consumer, possibly adding an additional mark up.

Austria

Fees are of application to payers in Austria for the rejection of a direct debit order, ranging from EUR 4.60 to EUR 10.

Netherlands

No fees are of application to payers in the Netherlands.

Portugal

– There are no fees per DD transaction charged in Portugal. Neither for setting up, for modifying or for closing a DD order.

– Regarding R-transactions, two banks apply a fee for executing DD orders in situations of lack of sufficient funds and one bank applies a fee in any situation in which it becomes necessary to regularize a DD order.

– All five banks charge fees for unauthorized overdrafts which can result, inter alia, from DD transactions with lack of sufficient funds.[98][99][100][101][102]

– All fees identified below, including footnotes, are accrued of Stamp Duty (currently 4 %).

98 Caixa Geral de Depósitos charges the following unauthorized overdraft fees: no fee if the overdraft lasts less than 2 days; EUR 4.81 if it lasts between 2 and 10 days; EUR 9.62 if it lasts more than 10 days.

99 Millenniumbcp charges a EUR 7.50 unauthorized overdraft fee.

100 Banco Espírito Santo charges a EUR 10 unauthorized overdraft fee.

101 BPI charges an unauthorized overdraft fee varying between EUR 5 and EUR 20.

102 Santander Totta charges a EUR 9.75 unauthorized overdraft fee.

Annex 12: Cost-benefit analysis – scope and methodology of the SEPA study by CapGemini

Scope

Member States: Sixteen EU Member States are included in the quantitative analysis, representing 95 % of the GDP of the EU27, 96 % of the non-cash transaction volume, and 99 % of the corresponding value. These countries are Austria, Belgium, Germany, Spain, Finland, France, Greece, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Sweden, Slovenia, and United Kingdom. Twenty five EU Member States are included in the qualitative analysis (all except Romania and Bulgaria).

Payment instruments: all major cashless payment instruments are in scope: credit transfers, direct debits and card transactions (by debit, delayed debit and credit cards). E-payments, mobile payments and cash transactions are out of scope[103].

For stakeholders, the study defines the following groups: consumers (individuals over fifteen years old), SMEs (companies with less than 250 employees), merchants (companies that trade goods or services and have more than 250 employees), corporates (companies that are producing goods or services and have more than 250 employees); public entities (irrespective of size), and banks.

Only the direct effects of SEPA have been included (that is, prices, operational costs, and investments). All indirect effects (such as mobile payments and replacement of cash) are excluded, as are non-payments-related effects (such as increased cross selling, lower interest rates, and increased cross-border trade).

E-invoicing has been addressed as an additional related item and sized independently.

Methodology

The study assesses the costs and benefits of SEPA for the supply (banks) and demand (customers) sides over a 6 year time framework (2007–2012) for four corner scenarios: Demand Pull, All Tied Up (which is the baseline scenario for this impact assessment), Supply Push and SEPA Big Time (which represents essentially the setting of a migration end-date policy option). Each of these four market scenarios represents a combination of the following possible values of the driving forces: namely: limited or extensive demand by the demand side; and reactive or proactive SEPA strategies by the supply side.

The development of the payments market without SEPA is used as the baseline for comparing the effects of SEPA. To evaluate the quantitative effects on stakeholders over time, the 'net SEPA effect' is defined as the logical sum of the necessary investments, change in operational costs, and change in bank fees.

[103] See explanation in footnote 9 of the impact assessment for differences between this document and the CapGemini study.

Multiple data sources have been used in order to build the economic model in the study, including (but not limited to):

– Interviews: Personal interviews were held with representatives from supply and demand side of the market in 10 EU Member States.

– Questionnaires: Over 950 replies to a questionnaire on SEPA's impact on the businesses of stakeholders from demand and supply side of the market were analysed.

– Secondary research: Policy documents, databases, news reports, independent studies, stakeholder and other interest group publications. A complete list of sources used is detailed in the study.

Annex 13: SEPA end-date objectives

Table 1: The link between the identified problems and objectives

	Problems	Objectives
General ('Europe 2020' level)	Untapped economies of scale	To increase the efficiency and competitiveness of the EU payments market by realising economies of scale and operational synergies on both the supply and demand side through non-cash payments standardisation
	Restriction of competition	To create an open and level playing field for competition in the payment service market at European level and facilitate downward price convergence for payment services in Europe
	Hindering of innovation	To establish a pan-European platform from which innovative and value-adding payment services and products can be launched
Specific	Continuation of fragmented payments market	To achieve full operational integration of the payments market in Europe for credit transfers and direct debits
	Multiple payment platforms to be maintained by market payment providers and users	To eliminate excess complexity and the duplicate cost on the supply and demand side
Operational (root cause level)	Uncertainty of SEPA completion	To create transparency and market certainty regarding SEPA completion for credit transfers and direct debits and the phase-out of corresponding national legacy payment instruments; and to reduce the use of multi-lateral interchange fees per transaction for SEPA Direct Debits to the efficient level of zero, and to ensure that any fees for R-transactions support an efficient allocation of costs to those giving rise to them

Annex 14: Benefits of an end-date and rapid migration to SEPA

Increased standardisation leading to complexity reduction and economies of scale

With full SEPA migration, multi-national businesses would be able to centralise their euro cash management and simplify/automate their payment procedures. Payments for cross-border trade would become as efficient as domestic payments. This has a substantial positive impact in an economy where more than 50 % of all euro area exports and imports take place between euro area Member States. Instead of using a multitude of electronic banking packages, corporates would be able to rationalise their banking relationships. A survey undertaken by payment processor VocaLink among almost 250 corporates[104] showed that this is perceived as a key benefit. 51 % of respondents named single-bank relationships among the top three desired features of efficient payment services. Payment format simplification is another area of great potential benefits. Anecdotal evidence from a large corporate, operating in 25 EU countries, shows that almost 20 different formats are used for domestic and cross-border payments by this enterprise. Furthermore, many of its payment transactions are still paper based. A complete SEPA would enable enterprises to centralise and automate their payment activities, for example in Shared Service Centres. Straight-through-processing of payment transactions and automatic reconciliation with other processes of the financial supply chain would also be facilitated. This would lead to better treasury management, reduced banking fees and improved liquidity. The recent financial crisis is an eloquent witness to the importance of liquidity management.

Furthermore, SEPA should help SMEs not having the same cash management resources as large corporates to operate across borders. Pan-European standardisation would make the processing of payments simpler and cross-border payments within the Community would not cause any additional effort in comparison to domestic payments. Evidence on the potential benefits for SMEs can also be drawn from a survey on payment services, which has been undertaken in the European Business Test Panel in November/December 2009[105]. Of the more than 250 businesses responding to this question (85 % of which were SMEs), more than 50 % believed that SEPA would drive down payment processing cost while less than 10 % thought that cost would actually go up. 20 % of the respondents did not have an opinion, and 20 % predicted no significant change. Beyond direct savings from cheaper payment transactions, SMEs could be able to make better use of standardised banking software as well as simpler and therefore more affordable integrated accounting and reporting applications.

Similarly, Public Administrations as heavy users of payment instruments should benefit from SEPA in that it simplifies their payment processes and allows for more efficient straight-through-processing of payments. Public tendering of payment services at European level should become easier, since the number of potential PSPs would increase, their offers could be better compared and inefficiencies caused by national payment formats should disappear. The combination of e-Invoicing solutions and SEPA as an underlying payment platform would also facilitate the automatic reconciliation of invoices and payments.

104 http://www.gtnews.com/feature/338.cfm

105 Results of the 2009 EBTP survey on payments, http://ec.europa.eu/yourvoice/ebtp/consultations/sepa3/statistics_en.pdf.

Similarly for consumers, who are becoming increasingly mobile in professional and private terms standardised cross-border payments would eliminate the need for several payment accounts in different countries. This would be of particular importance for the 11 million EU27 citizens who live permanently in another EU Member State outside of their home country[106]. More important in terms of absolute numbers, the benefits would extend to citizens living in border regions and citizens living abroad on a temporary basis. This includes for example seasonal workers, owners of a secondary residence, and internationally mobile students, whose number will continuously increase due to the Bologna process and the 'Youth On The Move' flagship initiative of the Europe 2020 strategy.

For PSPs and payment processors, economies of scale and common standards achieved by SEPA would make payments across the EU much more efficient. Even in its initial phases, SEPA has already helped to trigger some rationalisation and consolidation in payments processing as existing operators seek scale to remain competitive in the new emerging landscape[107]. This shows the further consolidation potential amongst payment processors to achieve efficient size while banks could choose to outsource payment services to remain competitive – all leading to a lower cost base and hence potentially more competitive pricing to customers. The potential social dimension of such consolidation efforts on the payment supply side is not considered to be significant.

Increased competition in an open and more transparent playing field

For PSPs, an integrated payments market would lower entry barriers across borders, thereby attracting new market players and intensifying competition.

Furthermore, standardised Pan-European payment instruments under SEPA would allow consumers, businesses, and public administrations to more easily compare payment products proposed by different PSPs and thus allow users to benefit from the more intense competition in payments markets. The magnitude of the price differences for payments from bank accounts was identified in the problem definition. This clearly points to the potential savings which could be realised by users if prices for payment services were to converge downwards through the integration of the EU payment market. For consumers, this would also positively contribute to better financial inclusion and access to basic financial services. Moreover, enhanced competition could give users a broader choice of payment services at affordable costs.

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106 http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-09-094/EN/KS-SF-09-094-EN.PDF

107 Merger of TAI and Interpay to Equens in 2006, http://www.equens.com/aboutus/organisation/development.jsp; Merger of SIA and SSB to SIA-SSB in 2007, http://www.siassb.eu/Engine/RAServePG.php/P/250210010404; Merger of Banksys and BCC to ATOS Worldline in 2007, http://www.atosorigin.com/en-us/Newsroom/en-us/Press_Releases/2007/2007_06_01_02.htm; Merger of Voca and LINK to VocaLink in 2007, http://www.vocalink.com/en/AboutUs/Press%20room/2010pressreleases/2007archive/Pages/VocaandLINKmergeandlaunchpan-Europeanclearingservice.aspx; Merger of PBS, BBS and Teller expected to be completed in 2010, http://www.pbs.dk/en/themes/news/Pages/news-20100105-merger_approved.aspx.

Opportunities for pan-European innovation

Through common standards and the creation of a European level playing field, a completed migration to SEPA would foster payments modernisation and the development of new services such as mobile and online payments, or e-Invoicing, on a pan-European basis to the benefit of consumers and other users. To support the growth of e-commerce, there is a need to develop secure and efficient payment means based on international standards. Similarly, SEPA would improve straight through processing of electronic invoices with respect to payment and reconciliation processes. It would thereby accelerate the replacement of paper invoices by more efficient and environmentally friendly e-Invoices. Regarding mobile payments, an increased take-up of this payment channel at European level would have positive effects on financial inclusion by making basic financial services more accessible for un-banked or under-banked citizens. SEPA can provide a platform to facilitate the development of such new services at European level.

Annex 14a: Benefits of Prohibiting MIFs per transaction and conditionally allowing MIFs for R-transactions through a provision on MIFs in the Regulation on end-dates

Impact of an antitrust enforcement option (no further guidance)

Theoretically, one could envisage a scenario, where no guidance is provided at all and where only European antitrust enforcement is relied upon. In the light of the various calls for guidance from the Parliament, the ECOFIN Council and the relevant provisions in Regulation 924/2009 this option would however not seem to provide sufficient certainty creating a level playing field between banks across the SEPA.

It is clear, indeed, that such a scenario would represent the lowest level of legal certainty and predictability. In this case only the draft working documents published earlier by the Commission, the Joint Statement of the ECB and of the Commission of 2009 and the transitional provisions under Regulation 924/2009 would offer guidance to stakeholders. The result may be a series of enforcement actions by NCAs and less legal certainty and predictability for market players and consumers. The impact of such an option would risk substantially delaying – or decreasing – the benefits that could be achieved by providing more comprehensive clarity through a binding Community instrument on SEPA direct debit MIFs (such as transparency, more competition, more choice and innovation, higher usage).

We will therefore focus on assessing the impact of the two options of Commission guidance and of a binding Community instrument.

Impact of a non-binding Community instrument option (Commission guidance)

– Lack of legal certainty and clarity

Guidance on SEPA direct debit interchange fees would be non-binding to parties other than the Commission. As a consequence, payment service providers would in first instance remain free to establish their business models and assess their compliance with competition rules individually. Subject to their assessment and the consecutive measures they take, national competition authorities and DG Competition would then have to assess their compliance separately on a case-by-case basis and within the framework of the Commission guidance. These factors may lead to an untimely and scattered enforcement across Member States, thereby substantially lessening the taking up of SEPA direct debit by companies and consumers across all Member States, which is crucial for reaping the full benefits of SEPA.

– Delaying the full benefits of SEPA

The process described in the foregoing paragraph could be lengthy, and there would be an increased risk of divergence and lack of clarity between the position taken by stakeholders and authorities. Migration to direct debit systems complying with essential requirements would be delayed as not all banks would immediately abide by the Commission guidance which appears to be the case, until clarity is obtained with respect to all collective arrangements regarding which doubts may occur on their compatibility with the competition rules, i.e. until all national and European proceedings with respect to such arrangements have followed their courses. Besides, this would again be likely to cause a delay in realising the full benefits of SEPA.

A certain level of uncertainty with respect to the compatibility of certain industry arrangements with public regulation and, more specifically, competition rules is a regularly occurring and often inevitable element of business risk. However, in view of the network effects of comprehensive European systems such as SEPA Direct Debit, *i.e.* the importance of the adherence of a critical mass of financial institutions to the system, such uncertainty may be detrimental to the effective migration to the SDD system. The resulting lack of a unified European approach would therefore impair the efficiency of SEPA DD.

– The lack of legal certainty as regards business models and interbank fees would risk causing a slower take-up by companies and ultimately consumers

There would be a risk that the lack or decreased level of clarity which would be a likely result for at least a transitional period would lead to the lack of confidence by consumers, and to companies willing to maintain legacy direct debit systems as they would be hesitant to be the first one to move to SEPA DD. This is likely to materialise in lower take-up of SEPA direct debit services than would be the case if a comprehensive end-date solution, including certainty on the business model would be brought to the market through an end dates regulation.

– Risk of maintaining high prices, limited transparency and choice for users

Due to the delays and uncertainties associated with this option, consumers may continue to face higher prices caused by the inflated cost base resulting from MIFs. Also the limited transparency on prices inherent to a MIF-based business model would continue to exist, limiting competition and the offering of competitive offers, at least until an overall common business model in line with competition rules would be implemented.

– Delaying the creation of a level playing field between market players

This solution would also create legal uncertainty as regards the financing regime applying for cross border SDD under the general reachability clause in Regulation 924/2009, which obliges banks offering direct debit at national level to also offer SEPA DD. This could result in the cross border functionalities of SEPA DD being curtailed, whilst SEPA wide reachability was intended as an important contributing factor in realising the full potential of SEPA for consumers and companies.

Therefore the choice of adopting a non-binding Community instrument would fall far short of being optimal as in particular it would not entirely address the calls for a definitive and speedy solution, and is likely to stifle migration to SDD, rendering the end dates regulation inoperative as a result.

Impact of a Binding Community instrument option

– Legal certainty

As described above there were clear calls for providing urgent and unequivocal guidance on long-term business models. A binding Community instrument is a better choice to achieve these goals.

Moreover, as is also true for the migration, and as set out above, substantial benefits can be achieved with setting clear rules, and such benefits can diminish if guidance is delayed and there is no clarity in the market as a result.

It is important to clarify what will happen after the expiry of the transitional period for cross-border direct debit MIFs defined in Regulation 924/2009. This clarification should be provided by the Proposal (i.e. by way of another regulation): any other solution will inevitably result in uncertainty.

Overall assessment

Due to the network nature of the payment industry the full benefits of SEPA will only materialise once the transition to pan-European payment instruments is completed at domestic level in all EU Member States under uniform conditions. Potentially differing national implementations run the risk of perpetuating the current payment market fragmentation. Also, economies of scale will not materialise in the absence of a common European solution. This is particularly true in the area of processing where whilst maintaining several infrastructure and schemes will provide additional revenues for processors for instance, it is hardly a cost efficient solution in terms of economic welfare.

Any form of competition enforcement action or competition guidance is likely to provide less certainty to the market and a more fragmented level playing field than a binding community instrument. It is therefore recommended to use the legal instrument of the regulation to be proposed for providing clarity on MIFs and other interchange fees.

Comparison in terms of impacts on stakeholders

The impact is likely to be markedly different depending on the choice of instrument. It can be reasonably expected that the possibility of antitrust enforcement only or a non-binding guidance will put significantly less pressure on payment service providers and provide less incentives for them to start competing on a pan-European scale than the adoption of a binding regulation.

– (Companies)

It is to be expected that under an anti-trust enforcement only or a non binding guidance option, (big) companies notably would not take the risk of being the first SEPA DD movers, especially in the face of uncertainties regarding business models and the charging structure resulting from these. In a framework of persisting fragmentation of markets, companies would continue to suffer from duplicate system and process costs and would not be in a position to integrate payments on a cross border basis. The benefits of SEPA for companies would be curtailed.

Under a binding regulation, companies are more likely to move to SEPA DD. As a result, they could enjoy stronger bargaining power and the possibility to seek tender offers to integrate their payments on a cross-border basis. This will result in economies of scale and a reduction in the processing costs. It is expected that these gains will more than compensate the fact that under the SEPA DD system, payees will face higher costs as they will handle the mandate.

– (Consumers)

It is to be expected that under an anti-trust enforcement only or a non binding guidance option, consumers might still be faced with higher prices, lack of transparency and lack of choice as a result of an unlevel playing field (uncertainty as regards the financing regime applying), which could result in the cross border functionalities of SEPA DD being limited. Overall, the benefits of SEPA for consumers would be curtailed.

Under a binding regulation, consumers would be in a position to benefit from a pass on of the benefits accrued to the companies (under the assumption of a healthy level of competition prevailing in the relevant consumers products or services' markets, ceteris paribus).

Under the binding regulation option, consumers will also face more direct and transparent price signals, due to the certainty on the business model. MIFs impose a hidden cost on consumers. If they are abolished banks will compete with each other in a transparent way. Obviously, payers' banks recuperate the costs they incur and make a reasonable margin on the services they provide, including in the Member States where no MIFs are currently in place. It can therefore not be excluded that when faced with the disappearance of per transaction MIFs as a source of revenue, (some) payers' banks may start charging consumers directly.

The findings based on current direct debit transactions in the EU suggest would suggest only a moderate effect on consumer charges. There is no clear evidence that consumers are charged less in the countries in which MIFs are in place as compared to the other Member States. There is no clear evidence either that in countries with no MIFs, direct debit transactions are 'cross subsidized' through high bank account fees in general. Besides, under the new SEPA DD system, payers' banks will face lower costs as compared to national direct debits as payees will handle the mandate. SEPA should trigger economies of scale, a higher degree of competition between banks and more choices for consumers. Finally, the Commission will monitor excessive price increases using the abolishment of per transaction MIFs as a pretext.

Under a transparent charging system, payees could pass on the benefits they reap from SEPA DD to payers as they can incentivise the use of SEPA DD through rebates and thereby reduce the effective consumer charges.

– (Banks)

It is to be expected that under an 'anti-trust enforcement only' – or a 'competition guidance' option, banks in countries where MIFs are in place will maintain their current business model until successful competition proceedings by national or European competition authorities have brought them to an end. This would result in an unlevel playing field (uncertainty as regards the financing regime applying), which could result in the cross border functionalities of SEPA DD being limited. As a result, the competitive pressure from consumers and companies as explained above would be more limited, which allows the less efficient banks to maintain un-transparent and high pricing structures, to the detriment of more efficient market actors.

Under a binding regulation, the most efficient banks will be in a position to offer competitive offers to companies and consumers, resulting in economies of scale and increased efficiencies. The less efficient banks will be forced to improve the running of their business and their offers in a transparent manner, on the basis of up-to-date business models. The resulting increased competition is in line with the core objectives of the creation of SEPA.

Annex 15: Cost-benefit analysis for a full SEPA migration with an end-date (CapGemini study)

The following tables and graphs present a cost-benefit analysis for the policy option of setting a SEPA migration end-date by regulation. For comparison purposes, the costs and benefits of the baseline policy option (no end-date) are also shown. Costs and benefits cover the six year period (2007- 2012). For other assumptions, please see explanations in Annex 12.

Cost-benefit analysis at level of supply and demand side

The setting of a SEPA migration end-date and the optimisation of payment operations bring important benefits to both the supply and demand sides of the EU payments market. It is the dynamic effect of increased competition (falling prices and/or better conditions for payment services) which doubles the expected benefits for the demand side and accordingly reduces profits of the banks. However, as indicated in the main body of the Impact Assessment, this revenue reduction is primarily in relative terms. In absolute terms, bank profitability for payments is still estimated to rise from EUR 10 billion in 2006 to EUR 21 billion in 2012.

Table 1: Costs and benefits to demand side

Demand	**Baseline scenario slow migration (EUR billion)**	**Setting SEPA end-date scenario rapid migration (EUR billion)**
Investment cost	-10	-17
Operational cost savings	-25	+101
Net SEPA benefit before price effect	-35	+84
Competition impact on payment fees	+8	+91
Net SEPA benefit	**-27**	**+175**

Source: CapGemini study

Table 2: Costs and benefits to supply side

Supply	**Baseline scenario slow migration (EUR billion)**	**Setting SEPA end-date scenario rapid migration (EUR billion)**
Investment costs	-7	-10
Operational cost savings	0	+49
Net SEPA benefit before price effect	-7	+39
Competition impact on payment fees	-8	-91
Net SEPA benefit	**-15**	**-52**

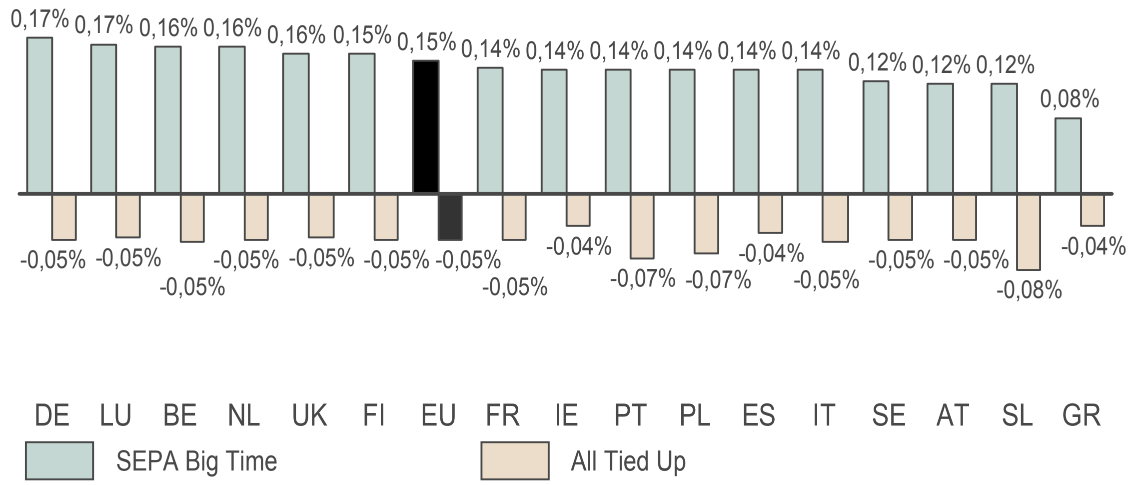
Source: CapGemini study

Cost-benefit analysis at Member State level

The two graphs and the table below present the economic impact of setting an end-date at the Member State level. On average, in the period analysed Member States may expect to gain an additional 0.2 % of the national GDP if the end-date is set in comparison to the existing situation. A rough calculation of additional benefits for 11 Member States which were not fully analysed in the CapGemini report (eight of them from the non-euro area) puts these figures at a somewhat lower value of between 0.12–0.14 % of their GDP.

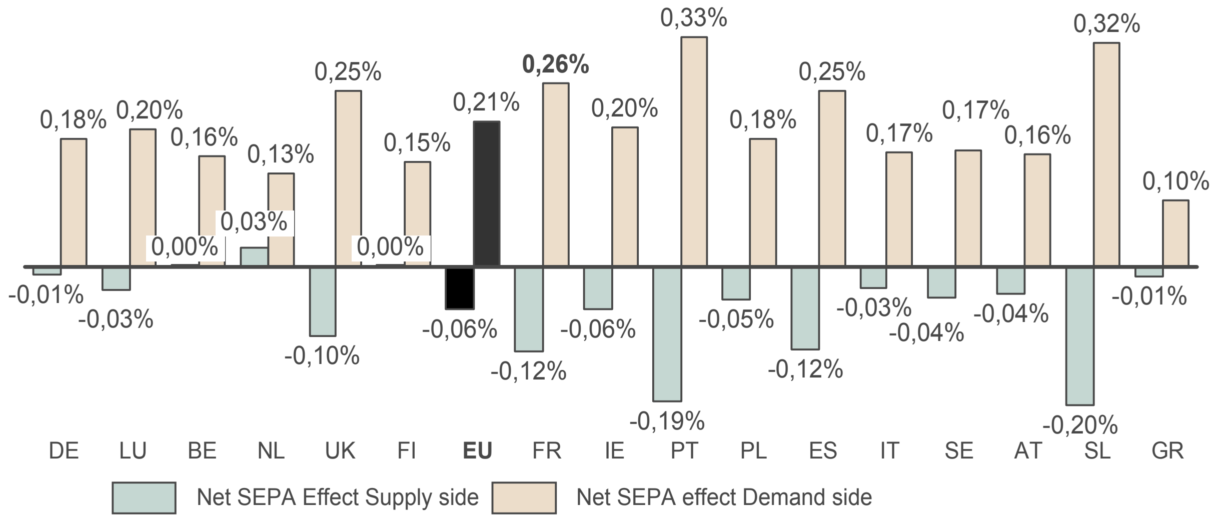
One of the more prominent results of the cost-benefit analysis is the fact that the supply side of the market (the banks) is expected to lose part of its potential payment profits when a full SEPA migration occurs, in comparison to the baseline scenario. The additional analysis at the Member State level shows that such situation is likely to occur in all but three Member States (Belgium, Netherlands and Finland, see the table). A logical assumption is therefore that with the exception these three Member States, most of the supply side players in the other Member States would follow a damage limitation strategy i.e. do not pursue actively migration to SEPA payment instruments. This is an important consideration to take into account when discussing the reasons of slow migration to SEPA (see Chapter 3.2.1) and another argument in favour of setting an end-date at the EU level.

Graph 1: Full SEPA migration benefits at the Member State level as a % of the national GDP (2006)



SEPA Big Time = Full SEPA migration scenario
All Tied Up= Baseline scenario
Source: CapGemini study

Graph 2: Full SEPA migration benefits at the Member State level for demand and supply side



Source: CapGemini study

Table 3: Full SEPA migration with an end-date: impact at the Member State level

Member State	Net effect supply side (EUR billion)	Net effect demand side (EUR billion)	Net effect country (EUR billion)
Germany	-1.847	30.641	28.794
United Kingdom	-13.791	35.362	21.571
France	-16.842	36.067	19.226
Italy	-3.310	18.507	15.197
Spain	-10.238	22.030	11.791
Netherlands	+1.073	5.382	6.455
Belgium	+0.029	3.902	3.931
Poland	-1.139	4.346	3.207
Sweden	-1.025	3.907	2.882
Austria	-0.779	3.215	2.436
Ireland	-0.982	3.171	2.190
Finland	+0.023	1.908	1.932
Portugal	-2.263	3.880	1.617
Greece	-0.236	1.713	1.477
Luxemburg	-0.090	0.550	0.460
Slovenia	-0.483	0.780	0.296
EU16	**-51.900**	**175.362**	**123.462**

Source: CapGemini study

Annex 16: Essential requirements for pan-European payment credit transfers and direct debits

Table 1: List of essential requirements for credit transfers and direct debits

Essential requirement	Justification	Additional implications/ considerations
Technical interoperability of PSPs and payment infrastructures	Eliminates technical obstacles for processing of payments at European level	none
Full reachability of PSPs	Ensures that every payment account in the EU can be reached through pan-European payments	none
Mandatory use of IBAN (and BIC where necessary) at a domestic level	IBAN and BIC are the only international standards for bank account numbers and bank identification which are currently in use throughout the EU	Potential restriction to IBAN only would require IBAN format to be modified in some Member States
Mandatory use of ISO 20022 payment messaging standard	ISO 20022 is the only international payment messaging standard which is currently in use throughout the EU	Consumers and small businesses exempted; only applies to batch transactions
Mandatory data elements to be used in payment messaging	Ensures easier payment reconciliation and straight-through-processing	Set of required data elements conditional on bank-to-bank, bank-to-customer, or customer-to-bank transaction domain
Minimum threshold of 140 characters in remittance information field	Ensures sufficient remittance data in line with currently used international and SEPA instruments while giving option to MS to use more remittance data domestically	none
Pan-European payment instruments must allow for straight-through processing in all stages	Maximises possible benefits of efficient and fully automated electronic payment processing	Erroneous transactions, such as rejects, returns, or recalls could be out-of-scope for full STP