

UATP's Reply to the European Commission's targeted consultation on the review of the revised Payment Services Directive (PSD2)

The following are the preliminary comments of UATP¹ on the European Commission's targeted consultation on the review of Directive 2015/2366/EU (the revised Payment Services Directive - PSD2). We understand that the present targeted consultation is launched to gather evidence to assist in the review of the PSD2 and that, in line with the better regulation principles, the evaluation will assess the effectiveness, efficiency, coherence and relevance of the Directive.

We understand that the review may start at the conclusion of the consultation in question.

UATP fully supports the PSD2's objective of a continued development of an integrated internal market for safe electronic payments to support the growth of the Union economy and to ensure that the merchants and companies using UATP enjoy choice and transparency of payment services to benefit fully from the internal market across all European Member States.

UATP Shareholders are global airlines, including European companies such as Aer Lingus, Austrian Airlines, British Airways, Finnair, Hahn Air Lines, APG Airlines, Iberia, Lufthansa AirPlus Servicekarten GmbH, TUIfly, Scandinavian Airlines System (SAS), and Italia Trasporto Aereo S.p.A (ITA) (formerly Alitalia). At last count, more than 60 European airlines accepted UATP as a form of payment, including Eurowings, LOT Polish Airlines, Lubeck Air GmbH, Ryanair, TAP Portugal, Transavia France and Wizz Air². These companies make significant investments in their European businesses and position themselves for accelerated long-term growth in the region. UATP enables the growth of these businesses as evidenced by its corporate mission to "create value for its Shareholders and Stakeholders by enhancing loyalty and providing essential services to users, maintaining a strong global Network and lowering the total cost associated with the acceptance of travel payment." Because UATP's shareholders are businesses that use the Network, UATP looks to provide value to the airlines, as opposed to investors looking to extract value from the airlines.

The European Union is working hard to create the conditions for a more competitive economy with higher employment and UATP and its European shareholders vigorously support that objective as it will benefit all stakeholders in furthering economic expansion and additional commercial opportunities. UATP's European shareholders are actively contributing to the European Commission "Europe 2020" strategy, which has a strong emphasis on job creation.

We are providing below our replies to the targeted consultation's questions which are more relevant to UATP. We would appreciate the opportunity to elaborate further on the various aspects of the consultation, as appropriate.

¹**Universal Air Travel Plan, Inc. (UATP)** is a low-cost payment network that is privately owned by the global airline industry. Airlines, travel agencies and rail networks accept UATP as a form of payment for air and rail travel, service fees, management fees and net fares. Established in 1936 as Air Travel Card, UATP was the first charge card issued.

² A list of merchants located in the EU that accept UATP is attached.

Title I: Subject matter, scope and definitions

Question 11: Do you consider that the scope of the PSD2 is still adequate?

UATP believes that Article 2 of the PSD2, covering its scope, and Article 3 of the PSD2 on exclusions, are adequate and do not need to be modified.

UATP believes that product differentiation, which is at the core of our values, should be taken into consideration while drafting European law. Notably, unlike other card networks, UATP account holders (called “Subscribers”) must be business entities and cannot be individual consumers. Furthermore, a single Subscriber account often has multiple, sometimes hundreds or even thousands, of individual employee cardholders. As for Europe, for example, EU based airlines issue UATP accounts for 41,427 Subscribers.

Therefore, we find the scope of the PSD2 adequate, as well as the exclusions from the scope as they currently stand. We believe that it is essential that the requirements set in a review of the PSD2 do not impede the future development of the services based on certain payment instruments. Equally, any review of the PSD2 should not, in our view, require a multitude of already existing products to comply with conditions which are not suitable for the payment instruments in question and their users. For this reason, through provisions of Article 3(k), for example, the PSD2 makes an exception for payment instruments which by their nature are used only within a limited network of service providers.

As far as the limited networks exemption is concerned, UATP considers that the aim of the European Commission in drafting Article 3(k) of PSD2 was to retain the exclusion of the already existing payment solutions defined as “limited networks” in accordance with the provisions of Article 3(k) of the PSD1 (Directive 2007/64/EC) (“**PSD1**”), because the provisions of PSD2 are not suitable for those payment instrument types or their users.

Question 11.1: In your view, should changes be made to PSD2’s scope (as in Art. 2)?

UATP believes that the scope of the PSD2 must be kept as it currently is.

Question 11.2: Article 3 lists the exclusions to PSD2. Do you believe there are exclusions in PSD2 that should be changed or deleted?

UATP strongly believes that the lists of exclusions to the PSD2 in Article 3 must be kept as it is.

Question 11.3: Should there be more exclusions?

UATP believes that there should not be other exclusions added to the current exclusions listed in Article 3.

Please explain your answer to question 11.2 and 11.3:

UATP believes that any review of the PSD2 must keep the product differentiation that the current PSD2's scope and exclusions from scope provisions ensure, as any change to such a product differentiation would have the detrimental effect of restricting the flow of funds and innovation in Europe.

UATP cards are issued by airlines and travel agencies, and accepted by airlines, travel agencies and rail networks. In accordance with its governing documents, UATP's airline issuers (and only the airline issuers) are required to be shareholders of UATP. Upon joining the UATP Network, issuers are authorised to issue the UATP card to business entities (called "Subscribers") that meet their portfolio criteria. Notably, unlike other card networks, UATP account holders cannot be individual consumers. As noted above, a single Subscriber account usually has multiple individual employee cardholders, in some cases up to hundreds or thousands of employees. UATP accounts are accepted as a form of payment for business travel and related expenses, by a wide range of airline, rail and travel agency merchants. For UATP Subscribers, using UATP allows them to receive detailed reports for air and rail travel, to access centralised billing and to improve cost controls, while managing corporate travel expenses in less time and with more accuracy. For example, a large manufacturing Subscriber could have separate UATP account numbers for its engineering, sales, and customer support departments. Each account number would be used by multiple employees, while allowing that department to track and manage its travel expenses. Such benefits translate into real savings and elevated efficiency for UATP Subscribers.

For European UATP Issuers, who operate extensively in the European Union and for whom cross-financing is not an option, the threat posed by a costly compliance with PSD3 could be existential and could force European UATP issuers to re-evaluate the viability of their offerings. Furthermore, issuers will undoubtedly be forced to offset losses, *e.g.*, by introducing or increasing costs for their customers. This would be detrimental to their clients and the marketplace, in general.

UATP is a low-cost form of payment, as it reduces payment costs for its issuers and merchants compared to the principal card brands. Hence, purely from a competition perspective, including limited networks such as UATP in the scope of the PSD3 could distort the payments industry in favor of big global players, restricting consumer (and merchant) choice and stifling competition in the process. For these reasons, we strongly recommend that any revision of the PSD2 keep limited networks out of the scope of the PSD2.

We would also like to add that, as a Limited Purpose Network, UATP bears little resemblance to the card schemes that are familiar to most consumers, and has a somewhat unique structure, as follows:

Business Model:

- Limited Purpose Network – UATP was created for the purpose of allowing businesses to purchase and manage air travel. Its airline ownership structure has remained a limited purpose air travel payment network for over 80 years.
- Restricted Participants
 - o Issuers – in accordance with UATP’s By-Laws, only regularly-scheduled air carriers may become issuers (shareholders).
 - o Merchants – as required by the UATP Participation Agreement, issuers are also merchants. Merchants may also be travel agencies that accept UATP to pay for air travel and air travel related expenses for businesses.
 - o Subscribers (account holders) – must be a business entity, no individuals or consumers may be issued accounts.
- No banks or acquirers are part of the Network; only airlines and related travel agencies.
- Settlement of UATP charges are mostly performed by the International Air Transport Association (IATA) clearinghouse (ICH) or the Airlines Clearing House (ACH). UATP does not hold or control funds at any point in the purchase process.
- UATP issuers are not permitted to charge interest on outstanding balances from Subscribers, and balances may not be maintained for multiple billing cycles. Additional fees, such as application fees, are prohibited and foreign exchange fees, if charged, must be disclosed in detail in writing to the Subscriber.

UATP Accounts, as differentiated from commercial credit and debit card accounts:

- Commercial Charge Card – in UATP’s model, purchases are invoiced to a business account on a periodic basis and must be paid in full by the account holder. There is no extension of credit or interest charged.
 - The issuer is not a financial institution, but a business in a specific commercial endeavor. In the case of UATP, that endeavor is air travel and related services, and all issuers are required to be merchants.
 - The merchant is also a commercial endeavor and not a financial institution.
- Commercial Prepaid – purchases are funded from an existing prepaid account or bank account. The cardholder must have funds available in advance of utilising the card. For prepaid accounts, the issuer is not a financial institution. Though not as common as the Commercial Charge Card, UATP does have some issuers who operate their program as a prepaid Commercial offering.

Business Models similar to UATP

UATP is aware of at least one other similarly situated network. This network is for paying toll charges assessed on freight shipped via trucks in the EU. Managed by a non-bank third party, the network offers a Commercial Charge Card programme that enables the payment of cross-border tolls and bills the freight company after the toll has been paid. Similar to UATP, the network provides services for a limited purpose, only to businesses, does not charge interest on the amount of tolls paid on behalf of the fleets, and does not allow the fleets to carry a balance on account beyond an agreed-upon billing cycle. Like UATP, this is another example of a limited purpose network that should be outside the scope of the PSD3.

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We would be happy to discuss these issues and their implications further in the near future, as required. If you need more information on any of the points raised above, please contact Monica Monaco at monacom@trasteuaffairs.com.

Yours faithfully,

RALPH A. KAISER
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uatp.com

Annex

UATP EU Merchants

1. Aegean Airlines
2. Aer Lingus Limited
3. Air Austral
4. Air Baltic
5. AIR CALEDONIE INTL dba AIRCALIN
6. Air Corsica
7. AIR DOLOMITI S.P.A.
8. Air Europa Líneas Aéreas, S.A.U.
9. Air France
10. Air Malta
11. Air Taxi Europe
12. AirPlus Servicekarten GmbH
13. AirX Charter Limited (AXY)
14. Amadeus Content Sourcing S. A. U
15. APG Airlines
16. Austrian Airlines
17. BCD Travel Services
18. Brussels Airlines
19. Chalcir Aviation
20. Cityjet Limited
21. Condor Flugdienst GmbH
22. Corporate Travel Management - AV
23. Corsair International
24. Croatia Airlines
25. CSA, Czech Airlines
26. DAT (formerly Danish Air Transport)
27. DEA Travel Ltd
28. Denim Airways
29. DirectTravel
30. Dreamjet dba La Compagne
31. EASY JET AIRLINE COMPANY LIMITED
32. Egencia (f/k/a) Expedia Corporate Travel
33. Eurowings Luftverkehrs AG
34. Finnair Oyj
35. FlexFlight ApS
36. Hahn Air Lines GmbH

37. Iberia
38. Italia Trasporto Aereo S.p.A (formerly Alitalia) (ITA)
39. KLM Royal Dutch Airlines
40. LOT Polish Airlines
41. Lubeck Air GmbH
42. Lufthansa German Airlines
43. Luxair
44. Olympic Air SA
45. People's Viennaline Altenrhein Luftfahrt GmbH
46. Rhein- Neckar Air GMBH
47. Ryanair DAC
48. SATA Air Acores
49. SATA International
50. Scandinavian Airlines or SAS (formerly Scandinavian Airlines System)
51. SNCF Mobilities
52. Swiss International Air Lines AG
53. Tap Air Portugal
54. TAROM Romanian Air Transport
55. TASF France
56. Transavia Airlines
57. Transavia France
58. TUI AIRLINES BELGIUM
59. TUIFLY GMBH
60. Twin Jet SAS
61. Voyages-SNCF Deutschland GmbH
62. Vueling Airlines
63. Wizz Air Hungary dba Wizz Air