

Targeted consultation on the review of the revised payment services Directive (PSD2)

Comment on Opinion of the EBA on its technical advice on the review of PSD2 (EBA/Op/2022/06)

4 July 2022



Fleet Cards Europe - Comment on Opinion of the EBA on its technical advice on the review of PSD2

Reference is made to the European Banking Authority's (EBA) Opinion on its technical advice on the review of PSD2 ([EBA/Op/2022/06](#)), particularly Question 3 regarding specific business models or services that are currently not in the scope of the Directive. Section 3.3. considers intermediaries acting as merchants and specifically references the fuel card issuing business. FCE represents independent fuel card issuers. The business model our members operate, which we outline in response to question 11 of the consultation, and in the additional documentation, has been in operation for many years and predates payment services regulation and PSD2 requirements.

It came about because the road transport industry, i.e., haulier companies and other operators running road vehicle fleets, needed a solution allowing its personnel to refuel or recharge vehicles and to acquire toll road access in a way that was easy to manage and that was limited to mobility-related products.

How our members' business model has benefited its haulier and fleet customers for many years now is as follows:

- The personnel refuelling vehicles and using toll roads do not need to carry cash, which is also for security reasons.
- The invoicing is simple and reduces potential administrative burdens so that all transactions of a fleet within a given timeframe are bundled in one consolidated invoice. The invoice flow bypasses the personnel on the road, noting that completeness and integrity of the invoices are key.
- The invoices are complete and include all mandatory information mentioned in art. 226 of Directive 2006/112/EC. By contrast, receipts issued at petrol stations, e.g., do not include the mandatory address information of the recipient.
- The invoices from fuel card issuers facilitate a manageable process as regards the refund of input VAT (mechanism of Directive 2008/9 EC). The bundling of transactions in one consolidated invoice serves that purpose and eases the administrative burden on both the road transport industry and the tax administrations involved.
- In addition to bundled consolidated invoices, the road transport industry seeks information on consumption data etc. to manage consumption costs, ensure security and encourage smart driving. Only fuel card issuers can provide this key data, which is also a critical tool in enabling more sustainable transport.

We note the EBA is suggesting where "re-sellers actually and legally act in their capacity as merchants that are responsible for the goods and/or services being provided they can/should be considered to fall outside of PSD2 since no intermediary services are provided" (EBA/Op/2022/06, Article 92-93).

FCE members feel their business model warrants being outside scope of PSD2. If there is potential for a new, separate treatment, other than being entirely outside the scope of regulation, we foresee an increased burden on the industry in adapting to any new approach, considering it has been working inside the limited network exclusion (Article 3K) for many years.

It is our view that, should fuel cards continue to be included in PSD2, then the application of the LNE should be retained, and that a harmonisation of approach across NCAs befitting the internal/single market is likely to have a greater costs/benefit outcome. As such this would be our preferred approach.