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Mr Michel Barnier  
European Commissioner for  
Internal Market and Services  
European Commission  
BERL 10/034  
B-1049 Brussels

**email:** [michel.barnier@ec.europa.eu](mailto:michel.barnier@ec.europa.eu)

Dear Commissioner Barnier,

As announced in the European Commission legislative work programme for 2013, the European Commission is about to adopt a legislative initiative regulating the multilateral interchange fees for card payments.

The Financial Services User Group supports this legislative initiative in order to improve competition in the payments sector and increase consumers' choice. In addition, the FSUG asks the Commission to take the necessary measures to avoid that the key market players use their dominant position to increase costs for consumers.

This is the reason why in our response to the Green Paper 'Towards an integrated European market for card, internet and mobile payments', we said:

*"There is a clear case for EU action, since there is no other way of tackling the abovementioned barriers across EU. Thus, EU legislation would be the most appropriate way of achieving legal clarity on interchange fees. The scope should cover both four-party and three-party schemes in order not to distort competition and create a level playing field. That being said, the impact of any policy option on consumers must be thoroughly assessed beforehand. For example, the impact on the cardholder fee and other fees directly paid by the consumer to his payment service provider should be anticipated."*

A 2012 ruling by the General Court – a jurisdictional instance of the Court of Justice of the European Union – confirmed a European Commission decision which stipulated that MasterCard MIFs breach competition law.

By setting a floor under the costs charged to retailers, these retailers were unable to "exert greater competitive pressure on the amount of the costs they are charged for the use of their cards". Echoing arguments that MIFs constitute an unjustified source of

income, the Court concluded that MIFs “tended to overestimate the costs borne by the financial institutions on issuing payment cards”.

In Spain (which is used by an international card company to lobby against the European Commission initiative) the situation is as such: Spain is a country with one of the lowest interchange fee levels in the EU. Since 1999, the Spanish Government has secured the signing of two agreements between banks and merchants to reduce interchange fees.

The last agreement implemented a reduction of nearly 60% on interchange fees for the period 2006-2010. The government estimated that this agreement would represent savings of €800 million to merchants and consumers (savings for merchants actually amounted to €2,749 billion in absolute numbers) as it would drop prices and improve services.

Actually during the period of application of the agreement, consumers had to pay more to their banks for their annual card fees, around €2,350 billion more, and it seems that they were less willing to use payments cards.

Here you can find official data published by the Bank of Spain reporting the increases on annual fees in credit and debit payment cards from 2005 onwards:

- Debit: <http://www.bde.es/clientebanca/comisiones/csf/historico/TDBEMISI.htm>
- Credit: <http://www.bde.es/clientebanca/comisiones/csf/historico/TCREMISI.htm>

In Spain, bank fees for all services<sup>1</sup>, not only for cards, have dramatically increased in recent years making it impossible to establish a correlation with the regulation of MIFs. The increase is mostly due to bad management conducted by Spanish banks in general and the lack of supervision of the national regulators. However, it is still possible for Spanish consumers to access fee-free debit cards (online) but under some conditions.

According to a study carried out by EPSM in 2012, in Germany and in other European countries where there was no interchange regulation, the sales growth of card payments at the POS was also interrupted in 2009. Thus, the main driver of the slow-down in card payment growth seems to have been the financial crisis. There is also no evidence to support the claim that the reduction in interchange in Spain has led to higher withdrawals of cash and thus more widespread use of cash as a means of payments.

In the meantime, the reduction of the average transaction value suggests that the interchange reduction in Spain has led to a further expansion of card payments in low-price segments, meaning wider acceptance by merchants. It could be also explained by the financial situation of Spanish households who have limited their level of consumption.

The data collected in different EU Member States shows that the level of MIFs is not the main aspect that affects the evolution of the annual fee paid by card holders to their bank. In most Member States, the annual card fee for a Visa or a MasterCard varies from €0 in some banks to €18, €20, €25 and €38 for the most expensive banks (France), while MIFs are exactly the same within each country.

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<http://publicaciones.adicae.net/publicaciones/pdf/Comisiones2007-2012.pdf>

The level of annual card fees only depends on the tariff policy and business model of each bank and the current crisis has led some of them to increase this stable source of income, relying on consumers' inertia as most of them do not switch to another bank.

In two countries, namely Denmark and The Netherlands, national card schemes operate with low MIFs which constitute a fixed amount and banks do not charge consumers. In the Danish case, it should be noted that Dankort (the Danish debit card) usually combined with Visa card (to be used abroad) works without a MIF in the traditional sense: NETS (the Nordic provider of payments, card and information services) and its predecessor PBS, acts as the only acquirer and all merchants pay a fixed fee that depends on the number of transactions submitted to NETS. Subsequently, NETS pays the issuers (the banks) a fee per Dankort transaction. The size of the merchant fee, and thus the fee from NETS to the issuers, is regulated.

The Dutch retail payments market is competitive: an alternative payment solution iDEAL has emerged over the past years and currently more than 60% of online purchases in The Netherlands are done using this means of payment rather than cards. Dutch consumers are satisfied with iDEAL which is cheap and safe. iDEAL satisfies the needs of both merchants and consumers.

For all the above reasons, the FSUG is of the opinion that the European Commission should reform the current business model for card payments as it has proven to be anti-competitive. This new business model must stop distorting competition and allow alternative payment service providers to establish themselves. One key measure to achieve this objective could be to reduce the level of MIFs. Another key measure is a ban on surcharges, as they have never proved an efficient means of improving the functioning of payments markets, but rather have become a business model of their own to generate extra profit (e.g. among airline companies) and complicate consumers' purchases.

The yardstick of any action must be that additional costs for consumers are avoided. No one wants to see the scenario of reduced MIFs leading to a rise in cardholder fees paid directly to a consumer's bank just because card companies and banks do not want to reduce their high profit margins.

Here are some proposals to prevent increased costs for consumers when the regulation enters into force:

- 1) Monitoring on a regular basis the annual fees paid by card holders to their banks and the evolution of prices of goods and services in shops where consumers mainly make card payment transactions (e.g. supermarkets, petrol stations, airline companies) in order to check that lower MIFs lead to lower prices.

- 2) Encouraging the reduction of all fees and interest rates which slow down the emergence of alternative cards and all other electronic payments. This could be done by improving the transparency of all payment account fees that should include all debit and credit card transactions fees including MIFs (see the EC legislative proposal on payment accounts), but also through the revision of the Payment Services Directive scheduled for this summer.

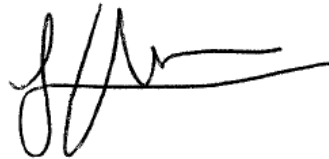
- 3) Promoting the interests of consumers in the payments area by inviting them, via information campaigns, to use cheap, safe and efficient payment services, and giving full and effective consumer participation in the observatories, forums and other national and European institutions dealing with payments.

4) Sanctioning those who do not comply with competition rules, including the retailers who do not pass on the reduction of MIFs to consumers.

Yours sincerely,



Mick McAteer  
Chairman of the FSUG



Guillaume Prache  
Vice-Chairman of the FSUG

Cc: Erik Nooteboom, Philippe Pellé, Maciej Berestecki, Chris Gauci