

## **Antitrust: Commission consults on draft guidance for Single Euro Payments Area (SEPA) Direct Debit scheme**

*The European Commission has invited comments on a Commission working document that aims to provide further guidance to participants in the SEPA Direct Debit (SDD) scheme to ensure that collective financing arrangements applied within this scheme comply with EC Treaty competition rules. The SDD scheme, launched by the European Payments Council (EPC) on 2 November 2009, allows consumers and businesses, for the first time, to use a pan-European system for cross-border direct debit transactions. The working document complements indications as regards competition rules already given in Council and European Parliament Regulation 924/2009 on cross-border payments (see [IP/09/637](#)) and in the joint Commission/European Central Bank press release and statements of September 2008 and March 2009 (see [IP/08/1290](#) and [IP/09/468](#)). Comments can be submitted until 14<sup>th</sup> December 2009. The public consultation reflects the Commission's commitment to remain in close dialogue with all relevant stakeholders. Following these consultations the Commission may, if appropriate, decide to adopt final guidance.*

Competition Commissioner Neelie Kroes stated "Today we provide further clarity to all stakeholders so that SEPA Direct Debit will be well-equipped for its successful development. SEPA should bring real benefits to European consumers and businesses, but it is important that it complies with the competition rules so that the full benefits can be achieved without adverse effects on banks' customers. The Commission looks forward to receiving input from stakeholders to refine our analysis".

The Commission working document focuses on general principles concerning multilateral interchange fee ('MIF') arrangements applied on a per transaction basis and concerning transactions that cannot be properly executed (e.g. because there are insufficient funds in the payer's account or because the account number is wrong - so-called 'R'- transactions) and alternative payment arrangements. More detailed assessments should be possible following inputs from interested parties on:

- possible collective financing mechanisms in light of specific national market situations;
- the likely impact of Commission's envisaged general framework on legacy schemes; and
- the price or quality experience of SDD as compared to current national direct debit systems.

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he main message in the Commission working document is that at this stage the Commission's preliminary view remains that a collectively set *per-transaction* MIF would not be in compliance with Article 81.

However, in principle, there may be different efficiency objectives for a collective arrangement for multilateral fees for R-transactions if appropriately designed. Such efficiencies, if appropriately substantiated, could allow the Commission to find a collective system for R-transactions in compliance with Article 81.

## Background

**SEPA** (Single Euro Payments Area) is an initiative of the European banking industry, with the support of the Commission and the European Central Bank, which seeks to create an integrated euro payments area and ensure that cross-border payments are as easy and efficient as domestic ones. SEPA covers credit transfers, payment cards and direct debit. With the new SDD, customers of banks and other payment service providers will for the first time be able to arrange cross-border direct debits to and from bank accounts in any of the 32 European countries participating in SEPA (the EU, Norway, Switzerland, Iceland, Liechtenstein and Monaco) to pay recurring invoices, such as rent, mortgage, energy and telephone bills and magazine subscriptions. SDD can also be used to pay national direct debits and over time all euro direct debits are likely to migrate to the new SDD.

As SEPA involves agreements between (potentially) competing parties, collective financing arrangements for the SDD must comply with EC Treaty competition rules. In this regard, [Regulation 924/2009](#) on cross-border payments in the Community granted a transition period for collective inter bank charging mechanisms on a per transaction basis until 31 October 2012 (see [IP/09/637](#)). The legal certainty and clarity provided by Regulation 924/2009 during the transitional period should facilitate the launch of and migration by banks to the new SDD system. As regards the long-term financing arrangements the Commission and ECB joint statement of 24 March 2009 makes clear that '*a general per transaction multilateral interchange fee (MIF) for direct debit transactions does not seem justified for efficiency reasons either for national or for cross-border transactions and therefore does not appear compatible with EU antitrust rules*' (see [IP/09/468](#)).

For the full text of the Commission working document, see:

[http://ec.europa.eu/competition/sectors/financial\\_services/SEPA\\_working\\_document.pdf](http://ec.europa.eu/competition/sectors/financial_services/SEPA_working_document.pdf)

The deadline for contributions is 14 December 2009, close of business.

For further details on SEPA, see:

[http://ec.europa.eu/internal\\_market/payments/sepa/index\\_en.htm](http://ec.europa.eu/internal_market/payments/sepa/index_en.htm)

[http://ec.europa.eu/competition/sectors/financial\\_services/banking.html](http://ec.europa.eu/competition/sectors/financial_services/banking.html)