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Commission Prohibits MasterCard's intra-EEA Multilateral Interchange Fees

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Introductory remarks at press conference

Brussels, 19th December 2007

Ladies and Gentlemen,

The Commission has today adopted a decision that MasterCard's multilateral interchange fees, or MIF, for cross-border payment card transactions with MasterCard and Maestro branded debit and consumer credit cards in the European Economic Area (EEA) violate EC Treaty rules on restrictive business practices.

The Commission has concluded that MasterCard's MIF, a charge levied on each payment at a retail outlet when a card payment is processed, inflated the cost of card acceptance by retailers without leading to any advantage for consumers or retailers.

On the contrary, consumers foot the bill, as they risk paying twice for payment cards. Once through annual fees to their bank. And a second time through inflated retail prices, given that retailers set their prices taking account of all costs, including MasterCard's interchange fees. MasterCard's MIF therefore acts like a "tax on consumption" paid not only by card users but also by customers using cash and cheques.

The decision requires MasterCard to withdraw its MIF within six months. If MasterCard fails to withdraw the fees or circumvents the Commission's decision, the Commission may impose daily penalty payments of 3.5% of MasterCard's daily global turnover.

The Commission decision does not mean that all MIFs are illegal, but that MasterCard's particular MIF is illegal. A MIF in an open payment card scheme such as MasterCard's is only compatible with EU competition rules if it contributes to technical and economic progress and benefits consumers. And MasterCard did not manage to convince us that this is the case.

It is **not** sufficient that a MIF simply increases the sales volumes of a scheme to the sole benefit of the member banks. Rather, a MIF should contribute to objective efficiencies such as to promote more efficient payment means to the detriment of less efficient ones. Also, the proceeds from a MIF should not just increase bank's revenues – they should be clearly dedicated to the achievement of efficiencies.

So if after today's decision MasterCard wanted to introduce a new MIF it would have to demonstrate clearly to the Commission that there would be advantages for both retailers and consumers, for example in terms of fostering innovation such as by improving the security of payments to combat card fraud.

Banks have traditionally set MIFs without involving either merchants or consumers. The process of setting a MIF could benefit from more transparency. Both consumers *and* merchants should have a say.

By way of explanation, I should add that the "interchange fees" concerned by this decision are fees which banks charge one another for transactions with a payment card. For transactions in shops, the interchange fees are typically paid by the bank of the retailer to the bank of the cardholder. It is when interchange fees are decided multilaterally that they are referred to as a "MIF" or Multilateral Interchange Fee.

The MIF at stake in the present case is a charge levied on each cross-border payment with MasterCard and Maestro branded cards as well as on domestic payments in eight EU Member States (Belgium, Ireland, Italy, the Czech Republic, Latvia, Luxembourg, Malta and Greece). In some of these Member States, MasterCard's MIF constitutes up to 70% of the price businesses pay for accepting credit cards.

The economic importance of MasterCard's MIF - and of MIFs in general - cannot be underestimated. In the EU, over 23 billion payments are made every year with payment cards, with a value exceeding 1350 billion euros. MasterCard's MIF is among the highest in Europe, set at more than 0.50% for debit card payments and more than 1% for credit card payments. This is twice as much as MasterCard charges in other continents such as Australia.

As you may know, the first phase of the Single Euro Payments Area will start in a few weeks, at the beginning of 2008. Today's decision will support the SEPA project in two ways.

First, the decision orders MasterCard to refrain from implementing its new "SEPA" interchange fees for the Eurozone. This prohibition will prevent that, in the area of payment cards, SEPA leads to permanent price increases to the detriment of consumers. In several Member States (such as in the Nordic and the Benelux countries) efficient domestic payment schemes operate without a MIF at all. If banks replaced their existing debit cards with Maestro cards, MasterCard's MIF would inflate the cost of card acceptance in these countries.

Second, today's decision also provides more legal certainty. We know that some stakeholders are preparing the ground for new schemes. The question arises whether the Commission will once and for all prohibit all MIFs, including MIFs for new schemes in a start up phase. The answer is no. The decision cannot and does not prohibit MIFs as such. Every scheme and every MIF must be examined on its own merits.

Today's decision is therefore important for SEPA. This comes at a time when – as I understand – the European Payments Council, the body setting up SEPA, has also decided to provide more clarity on what it actually takes to be "SEPA compliant" for banks, card schemes and payment cards.

There has been a confusion in the market. Many operators understand that a SEPA compliant card scheme must cover *all* of the 31 SEPA countries. Obviously, only MasterCard and Visa could have met this requirement. However, the European Payments Council has yesterday decided to clarify that there is no such requirement. This means that domestic card schemes in Europe can develop into genuine competitors of the international schemes. I congratulate the industry with this move forward.

Let me finally say a few words regarding the other large payment card scheme in Europe, VISA. Back in 2002, the Commission adopted an exemption decision concerning VISA's MIF. This exemption expires in a few days, on 31 December and from that moment on VISA will be responsible to ensure that its system is in full compliance with EU competition rules.

As an "interested third party" in the MasterCard proceedings, VISA already knows about the Commission's objections concerning MasterCard and will also obtain a non confidential version of today's decision. We trust that the MasterCard decision will provide VISA with guidance for the way ahead. As I have already said, though, each case needs to be assessed on its merits.

Ladies and Gentlemen, let me conclude.

Card payments are increasingly important in today's economy. Throughout the EU, SEPA will further enhance economies of scale in the cards industry to the benefit of consumers.

Today's decision addresses MasterCard's anticompetitive behaviour and removes the danger of inflated prices due to the MasterCard MIF.

Ensuring that the Single Market for payments can work efficiently is a priority of the Commission. We will remain particularly vigilant in this area and address any competition restrictions that threaten to hamper the proper functioning of the market.