

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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PSR Strategy
Payment Systems Regulator
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2 September 2021

By email: psrstrategy@psr.org.uk

Dear Sir / Madam,

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK.

The Panel welcomes the PSR making their consultation more accessible through providing it in a range of formats.

The Panel is supportive of the outcomes and priorities set out in the PSR's proposed strategy and is encouraged to see success measures listed in the consultation. It is essential that the PSR's work proceeds at pace. The timelines and sequencing of the delivery of the strategy should be made clearer. Through setting minimum standards, regulation can support competition. The lack of consumer protections for interbank payments and the harm to consumers from Authorised Push Payment fraud presents a clear and immediate risk to the strategy delivering on its outcomes.

We would like to stress that the use of payments data should be kept under review and that disclosures around the use of data should be closely followed. The PSR should also continue to conduct and publish consumer research to understand challenges consumers face around payments as well as reporting on key indicators such as reimbursement rates to victims of APP scams, and access to cash coverage.

Reflecting on the overall strategy, there are three key considerations for consumers making payments:

- Protections;
- Cost; and
- The ease with which a payment can be made.

Given that consumers currently benefit from no pricing differential between payment methods, competition for consumers rests on ease and accessibility on the one hand and protections on the other. If the PSR really intends to stimulate competition by encouraging use of interbank payments as an alternative to card payments, the focus should first and foremost be on consumer protections. Ease of use and access should be a secondary priority. Finally, any attempt to stimulate competition by allowing differential pricing for different payment methods should be carefully considered to ensure it does not disadvantage those dependent on cash.

We would stress here that competition and innovation must not come at the expense of consumer protection. Consumer awareness of the payment methods they are using, and their varying levels of protection, is low. All consumers of all ages, including the most vulnerable, use all types of payment methods – it is therefore vitally important that:

- A consistent and robust level of consumer protection across payment methods is provided.
- Firms should communicate transparently, using terminology that is easy to understand
- Authorities must ensure their messages are consistent and coordinated. A long-term investment in consumer education and guidance with other bodies (such as the Money Advice and Pensions Service), needs to be made.

The Panel would like to reiterate the following key principles, which were included in its response to the HMT Payments Landscape Review:¹

- **Accessibility** - All UK consumers must be able to pay and be paid. The system must be accessible to all.
- **Fairness and affordability** - The cost of making payments should not exclude particular consumers, businesses or transaction types. It should not cost more for the poorest to pay.
- **Reliability** - Individual payment systems must be robust and reliable with appropriate redundancy measures in place to ensure continuity of service in case of need.
- **Sustainability** – The Payment System should be operated on an economically sustainable basis. The failure of individual payment systems should not result in consumer losses.
- **Safety, security and consumer protection** – Individual payment systems must be safe and secure. The Payment System should offer at least a minimum level of protection to consumers, including against fraud and losses as a result of firm failure.
- **Transparency** – Individual payment systems’ costs and protections must be clear and easily understandable. Individual payment systems should offer full transparency about how end users’ data is used, by whom and to what end.

The Panel has provided further detail below covering:

1. Use of payments data.
2. Protection of data.
3. Credit provision and payments.
4. The role of Pay.UK.

(1) Use of payments data

The PSR has chosen not to include exploring the use of payments data as a priority. The Panel considers consumer protections around the use of payment data an urgent issue, given the:

- Sensitivity of the data to consumers;
- Value of the data, including to third parties; and
- Volume of consumers making digital payments.

Innovation is also resulting in payments data passing through more market participants and different layers of infrastructure (including cloud and other providers). The resulting complexity reduces consumer’s ability to provide ‘informed’ consent over the use of their data. It is therefore essential that this area is kept under close review. Regulators (such as the FCA, PSR and ICO) must co-ordinate effectively, given their different remits and potential gaps that may emerge.

This has additional urgency given the current competitive landscape. The intense competition between payment providers, combined with increased non-cash payment volumes, the low interest rate environment, and evident constraints on payment pricing, would seem to indicate that some business models will only be sustainable through the

¹ https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_hmt_payments_landscape_review.pdf

commercial use of consumers' payment data (or the ongoing provision of credit facilities – see 3 below). Where providers use or intend to use consumer data, consumers should be made fully aware and give their informed consent.

(2) Protection of data

Beyond the privacy issues raised in (1) above, there are security issues around payments data which need to be kept under close scrutiny. Consumers should not be put at risk through data breaches whether at merchants, payment providers, or third parties supporting either group. Given the growing trend toward cloud storage and outsourcing, we would stress the importance of ensuring that:

- Data is kept securely;
- Investments are made in cyber defences on an ongoing basis;
- Consumer communication is prioritised in case of any incidents; and
- Consumers are protected (both financially and otherwise) in case of such incidents.

(3) Credit provision and payments

The provision of payment services has long been subsidised (among others) by the provision of credit. We would encourage the PSR to collaborate with other regulators to better understand emerging business models of those active in and entering the payments arena. Such credit must be provided on a sustainable basis (for consumers), and – given consumers' dependence on their payment providers – the business models themselves must also be sustainable.

(4) The role of Pay.UK

The PSR's proposed strategy involves *developing the governance of interbank payments, with a view to giving Pay.UK a stronger role to lead the development of protections*. Governance of payments is key. It is therefore essential that:

- Pay.UK is appropriately supervised and that its responsibilities are clear. The PSR should learn from past experiences where delegated regulation has been ineffective and ensure this is not repeated.
- Consumers are properly represented in the governance and operations of Pay.UK. Consumers should not be an afterthought. They should be given at least equal representation at Board level to providers and merchants. Pay.UK and the End User Advisory Council (EUAC) must also establish a close working relationship. The Panel notes that in the EUAC's 2019 – 2020 Annual Report, concerns about the relationship between the EUAC and Pay.UK, were raised². While we recognise that the 2020 - 2021 annual report was perhaps more encouraging, we would stress the importance of such concerns being taken seriously and swiftly resolved.
- Rules cover the full spectrum of interbank payments, independently of where and how they have been initiated. For instance, consumer protections should cover Open Banking-initiated payments.
- Pay.UK has the ability to enforce compliance with its rules.

Yours faithfully,

Wanda Goldwag
Chair, Financial Services Consumer Panel

² ...There is no doubt that Pay.UK listens carefully to what we say and takes our views into account in relation to the specific issues under discussion. However, we would like the advice we offer to have an impact more widely across all of the organisation's work, so that end user thinking is increasingly in the organisation's 'bloodstream'... (https://www.wearepay.uk/wp-content/uploads/PD651_Pay.UK_EndUserCouncilReport_LR.pdf)