



EUC comments on SEPA migration end-date discussion paper

Date: 20 April 2010

Introduction

The End-users Committee (EUC) welcomes this more detailed discussion paper on the issue of SEPA end-dates. As a starting point we would reiterate the message given in the position paper published by the End-Users Committee in June 2009. This paper made clear our view that, while we are not against the principle of end-dates as such, it is not appropriate to set binding end dates for SEPA credit transfer (SCT) and SEPA direct debit (SDD) while outstanding issues of great importance to stakeholders are still unresolved.

We also ask the Commission to note that the European Parliament Resolution of 10 March 2010 calls for SEPA instruments which are no more expensive for end-users. It also calls on the European Payment Council to take into consideration the end-users' requests and subsequently modify its rulebooks.

As the Commission's discussion paper acknowledges, there are still serious questions as to the transparency to date of the process which has led to the development of the current SEPA SDD and SCT. It is also clear that consultation, which got off to a very late start in the development of SEPA, is still far from adequate. It is essential, if SEPA is to be seen as a move forward by those who will use it, that it is not presented to end-users as a fait-accompli produced by, and for the ends of, the banking sector.

We also repeat our view that the two SEPA products are to be considered separately. SCT has been in place since 2008 and, although the take-up is not high, the outstanding issues which remain to be agreed are limited in number and are, in our view, resolvable in the fairly short term. SEPA direct debit is a different product and, although recent progress has been

made¹, there remain matters to resolve for which adequate time must be given. This is also the product where 'niche' products are more predominant. We see no reason why these two different products should be subject to the same end-date.

It is therefore our view that there should be two separate end-dates for the two SEPA products, SDD and SCT.

We will now look in detail at each of the possibilities put forward by the Commission discussion paper.

1. Proposed Options

1.1. Self-regulation and non-binding community instrument

Although the Commission does not explicitly take a view, it is clear that neither of these options is seen as favourable in that they do not provide an adequate solution to the perceived need for swift migration.

The EUC believes it is far better to hold out for SEPA instruments which fit the needs of the whole community – providers and end-users – even if this takes a longer time. This must be preferable to imposing a deadline which leaves Europe with payment systems which do not meet these needs, which could well result in a worse system for many than we have at present and which would create lasting dissatisfaction.

However, we have come to the conclusion that, given the slowness of progress to date, SCT and SDD would benefit from the extra impetus that a community instrument on end-dates would give.

We will look at the proposals in detail below but take the view that we could favour a binding community instrument which mandates essential requirements.² This is with the proviso that the two products are seen as separate with separate end-dates.

In addition, a number of stakeholders, in particular the EACT, are very concerned at the lack of progress and the uncertainty over new SEPA products. There is a clear need for business stakeholders to have sufficient certainty over SEPA schemes and rules to be able to implement the necessary changes in their business practices. If therefore, such a community instrument is agreed upon, it should be swiftly introduced and should establish a period of stability to allow for effective implementation.

1.2. Binding community instrument

The view of the EUC has been that there should be no Regulation or Directive setting a mandatory SEPA migration date until existing issues of disagreement between providers and end-users have been resolved.

However, if a way could be found for a regulation that is sufficiently flexible to safeguard end-user interests and to allow for continuing evolution of the schemes currently developed by the EPC we would not rule-out the possible advantages of such action.³ We are therefore very interested in the Commission's proposals on essential requirements, which we will comment on below.

¹ This view is not shared by BEUC: see para. 2.1.

² The CEA and the FAEP do not wholly concur. They think that setting an end-date for national direct debit schemes without solving all open questions will put the success of SEPA at risk. If the European Commission nevertheless insists on a community instrument, the CEA and FAEP favour the self regulation approach but could also agree with a recommendation by the European Commission.

³ See above.

2. Implementation Approaches

2.1. Use of existing schemes

The EUC could not accept the mandatory imposition of the SEPA schemes as currently proposed by the EPC, as there is still work to be done to establish systems which meet the needs of users.

Business members of the EUC appreciate the recent progress made to resolve outstanding issues on SDD raised by them, but cannot yet see the Rulebooks as a final optimum product. They are anxious that the system which is put in place must be flexible enough to allow the development of new products and to offer users a range of payment options which suit their circumstances.

The consumer representatives of the EUC would make a further point. The set of security measures requested by consumers representatives in order to better protect all EU consumers has not yet been included in the core SDD Rulebook. This clearly shows that SDD still needs to be improved in order to meet consumers needs.

In addition, we understand that difficulties arising in the migration from existing mandates to SEPA mandates have not been resolved, particularly in Germany. This is an issue which must be addressed before end-dates can be contemplated.

Further, we wholly agree with the Commission's stated drawback that such a mandatory adoption of the existing schemes would grant a de facto monopoly to the EPC. There has not been sufficient transparency and there is still a severe imbalance of power between end-users and the EPC in terms of the consultation and decision-making. We are still in a position where, however forcefully stated, the needs of end-users can be ignored by the EPC plenary, which has sole final decision-making power.

2.2. Common standards

In our view the mandatory use of BIC and IBAN, though necessary for the moment, is only a small part of harmonisation and is insufficient to push real progress. We would also suggest that better identifiers should replace BIC and IBAN in the future.

2.3. Essential requirements

We are interested in this proposed solution. If essential requirements could be set which allow for flexibility and innovation and which allow full consideration of the needs of end-users, such a solution may be satisfactory. We do not see the fact that such a regulatory concept is new in the field of payments to be a barrier.

We would, however, make the following stipulations:

1. This proposal would not implement the mandatory adoption of the SEPA rulebooks on SDD or of the SEPA SCT scheme as they currently stand, since these are not fully compatible with the requirements of end-users.
2. The formulation of the essential requirements would be carried out in a way which allows for equal representation of providers and end-users. The views of the EPC and the EUC would be given equal weight in the process. In addition, a public consultation with all stakeholders should be undertaken.
3. The new EU SEPA Council, which is to be formed, would be fully involved in the final decision on the essential requirements. The EPC Plenary will not take the final decision.
4. No end-date will be mandated until agreement has been reached on these essential requirements.

5. The regulation, in whatever form, would allow for future modification, innovation and growth of the schemes as introduced.

3. Product specification

3.1 All-inclusive approach

The direct debit system in Europe varies largely across the member states. There are systems which exist only in some areas and not at all in others; the way consumers and business view direct debit has evolved in different ways and the levels of security checks which users expect also varies. In the light of this, we take the view that we will only arrive at a good end-product if we deal with the types of niche products identified by the Commission in a gradual way. The sudden cut-off of the proposed all-inclusive approach is not a good one.

3.2. Permanent exception or staggered approach

The objections raised by the Commission to both these approaches are that the full economies of scale would either not be achieved or would be delayed. We would point out that the majority of necessary investment for the introduction of SEPA systems has already been made. As to the costs of running parallel systems, we would raise the question as to whether the straight saving of money is the paramount and only objective. The true objective surely must be to obtain a system which provides the best service at the lowest price *at which that best service can be maintained*. In other words: dropping to a service where the only option is the poorest service, simply to optimise economies of scale is not in the interests of European payment users. We advocate the preservation of options which give end-users the choice both of service and, if appropriate, of price. Harmonisation should not mean the poorest quality for all.

A second important point we would make is that some payment products which may currently be 'niche' may well have the potential to grow and to be adopted on a wider basis across the community. We give here the example of the ELV 'one-off' direct debit system currently only available in Germany. It could well be that retailers in other member states, if offered the option of accepting such a payment product, would be enthusiastic. We must ensure that we do not phase out any currently niche products which have the potential to become main-stream. In the same way, we must not let products die out which could provide the seeds for innovative products of the future.

Such an approach could allow the permanent exemption of some niche products and the gradual phasing out of others. It may also allow for the development of new optional products which are restricted in geographical area or are otherwise 'niche'.

4. Conclusion

We would state in conclusion that it is of paramount importance that regulation does not become the means by which the SEPA project is governed on an ongoing basis. The evolution of SEPA in the future should be based on market-driven forces and on consensus among providers and end-users on modifications and developments in the future. Innovation should be encouraged through the mechanism of supply and demand: it should neither be hindered nor forced by future regulation in the retail payments area unless absolutely necessary.

We do however accept that at this stage regulation may be the best way forward as a one-off measure⁴. We would therefore support a SEPA end-date solution which includes ALL of the following:

- Binding community instrument which sets overall essential requirements⁵;
- SEPA credit transfer and SEPA direct debit should be treated separately;
- End-users must be fully involved in the design of the essential requirements, with ongoing direct consultation with the EUC and a public consultation on any legislative proposals;
- The EU SEPA Council will be an integral part of the process.

⁴ The CEA and FAEP, however, both favour the self regulation approach but could also agree with a recommendation by the European Commission.

⁵ See above.