

Commission Consultation

ACCESS TO A BASIC PAYMENT ACCOUNT

BEUC response

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Summary

BEUC welcomes the European Commission consultation on “Access to a basic payment account”. BEUC objectives with regard to financial inclusion and payment services would be partly addressed by the prospective legislative proposal.

BEUC’s main requests with regard to the Commission proposals are as follows:

- Any consumer should have the right to access a basic payment account, i.e. not only the financially excluded but also those who do not need additional services offered by a regular bank account;
- All banks and payment service providers concerned should be bound to offer basic payment accounts to all citizens throughout the EU;
- Community rules on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing should not be used by financial institutions as a means to financially exclude consumers. This is without questioning the need for fighting against illegal practices;
- In addition to the list of services and functionalities of a basic payment account proposed by the Commission, the following functionalities should be part of it: account management and account statements. Online-banking should also be proposed to consumers;
- Possibility for low income consumers to have access to a small free overdraft facility (buffer zone) and the facility for savings should also be considered;
- Different national specificities should be taken into consideration when defining a ‘basic payment account’;
- The price of a basic payment account must be affordable and strictly cost-based;
- The price of a basic payment account for financially excluded people should not exceed its actual cost;
- Different national specificities should be taken into consideration when discussing the issue of price of a basic payment account;
- All consumers should be made aware of the possibility to opt for a basic payment account;
- Basic payment account should be actively promoted by financial institutions;
- Public authorities should also launch large-scale information campaigns to raise consumer awareness of basic payment account;
- ADR mechanisms should be simple, accessible, effective and free, both nationally and at Community level. They need to be independent as well as powerful enough in their decisions. In case disputes involve parties in different Member States, FIN NET should be used to solve consumer complaints;
- A minimum harmonisation approach should be adopted in order to at the same time guaranteeing access to a basic payment account to all EU consumers while leaving open the possibility of adopting additional measures at national level;

BEUC welcomes the European Commission consultation on “Access to a basic payment account” which we consider to be a logical follow up action after the public consultation on “Ensuring access to a basic bank account” which was conducted last year¹.

We welcome the fact that the scope has been expanded to basic payment account. Indeed, a basic bank account is not necessarily the same as a basic payment account. In some Member States where a basic bank account is provided this account does not always include all essential means of payment (e.g. debit card).

Further, an essential difference between a basic bank account and basic payment account is that, while the former targets financially excluded people, the latter is accommodated to meet also the expectations of consumers that do not need additional services such as overdraft facility or credit card.

BEUC objectives with regard to financial inclusion and payments services would be partly addressed by the prospective legislative proposal. In terms of payment services, BEUC position is that essential means of payment (cash, including over-the-counter and ATM cash withdrawals; credit transfer; direct debit and debit card, including prepaid basic payment cards) should be considered as basic commodities available to all EU consumers.

Financial inclusion constitutes one of BEUC’s members’ priorities in the area of retail financial services: *“Basic banking services should be available and accessible to all EU consumers everywhere in the EU”*. Therefore, the concept of financial inclusion should also cover financial services other than the provision of basic payment accounts. Excluded consumers also need access to credit and savings for normal participation in social and economic life. Apart from proposing legislation in the area of access to payment account, the Commission should therefore also consider initiatives to stimulate the development of alternative forms of credit (e.g. microfinance) based on the principles of responsible lending. Furthermore, simple savings products should also be offered to all consumers. This is without prejudice to consumers’ freedom of choice, i.e. consumers should always be able to buy products and services separately.

¹ See BEUC response to the Commission consultation on “Ensuring access to a basic bank account”: <http://docshare.beuc.org/docs/1/JFAMKBLBFFMKOMEBIADHCMHGPDBG9DBNAD9DW3571KM/BEUC/docs/DLS/2009-00630-01-E.pdf>

COMMISSION SERVICES WORKING DOCUMENT

Principle

A harmonised framework could be established to guarantee the right of access to a basic payment account to any consumer.

This framework would be without prejudice to Community rules, in particular on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

BEUC Position

BEUC agrees with the Commission approach: all EU consumers should be guaranteed access to a basic payment account.

The introduction of basic payment accounts on a universal basis would be an important step both from financial inclusion and consumer choice viewpoint.

In terms of financial inclusion, access to financial services in general and to a basic payment account in particular is key for consumers to be integrated in society and to live a normal social and economic life. Without access to a basic payment account, a great deal of important financial services remains inaccessible. Moreover, bill payments can be more time-consuming and costly without a payment account, and charges can be higher for basic financial transactions such as cashing cheques (in countries where this service exists).

Furthermore people without a payment account have in general very limited access to electronic payments and cannot buy on the Internet, thus reducing their choice of products and services. People without access to various means of payment are unable to take advantage of the lower prices of goods and services that internet sales can offer.

Without a payment account, it can be very difficult to find accommodation or even a job; in some countries, paying salary or social benefits, or any type of payment from the government/municipalities to a citizen in cash is banned and paying in cash in general is allowed only for a limited amount of money.

Additionally, universal access to a basic payment account will meet the needs of those who do not need some additional services linked to a bank account, e.g. overdraft facility and credit card.

A minimum harmonisation approach should be adopted in order to at the same time guaranteeing access to a basic payment account to all EU consumers while leaving open the possibility of adopting additional measures at national level.

BEUC has some concerns as regards the fact that access to a basic payment account could be limited by rules on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. BEUC does not question the need for fighting against these illegal practices. However, it has been observed that some national legislation and some banking practices go too far. In

several countries, the proof of residence is necessary and may create difficulties for consumers in particular circumstances.

For example, in France, according to the "Arrêté du 2 septembre 2009"² consumers can be requested to provide information on their personal financial situation before opening a bank account and later at any moment. Before opening a bank account at the Caisse d'Épargne or the Crédit Agricole, each consumer has to provide evidence of his sources of income (e.g. copy of his pay sheets and income tax return).

It seems that some banks are overzealous in this area. They use legislation on money laundering to decide to open or not a bank account even if their decision has nothing to do with a real risk. Immigrants, people having irregular incomes or receiving social benefits have more difficulties to provide supporting documents of their revenues. In addition, one can also wonder why a bank should have an overview of incomes, personal properties and assets of its private customers when no suspect transaction has been identified. There is a clear need to harmonize the interpretation of the anti-money laundering regulation.

In Italy access to a bank account is very difficult for immigrants and people with negative records in private credit data bases. Frequently a guarantor is compulsory, in the absence of which it is impossible to open a current account.

A recent research carried out in UK into the most vulnerable consumers and their exclusion from banking³ showed that identification requirements remain a barrier for some people from marginalised groups to become client at a bank. This was particularly the case for new migrants, but also for ex-offenders and homeless people who did not have a fixed address and were not in receipt of welfare benefits.

More generally, a limitative list of justifiable motifs that may cause refusal to open a basic payment account should also be established.

² Arrêté du 2 septembre 2009 pris en application de l'article R. 561-12 du code monétaire et financier et définissant des éléments d'information liés à la connaissance du client et de la relation d'affaires aux fins d'évaluation des risques de blanchiment de capitaux et de financement du terrorisme :
2° Au titre de la connaissance de la situation professionnelle, économique et financière du client et, le cas échéant, du bénéficiaire effectif :

a) Pour les personnes physiques :

- la justification de l'adresse du domicile à jour au moment où les éléments sont recueillis ;
- les activités professionnelles actuellement exercées ;
- les revenus ou tout élément permettant d'estimer les autres ressources ;
- tout élément permettant d'apprécier le patrimoine (...).

³ Consumer Focus research, UK, June 2010: <http://www.consumerfocus.org.uk/publications/on-the-margins>

Characteristics of a basic payment account

List of services and functionalities

A basic payment account could consist of the following functionalities: the opening and the closing of a payment account; the means for the consumer to receive, place, transfer and withdraw funds, both physically and electronically; the provision of a debit card allowing for the withdrawal of cash and the carrying out of electronic payments.

However, an overdraft facility or overrunning would not be part of a basic payment account. Access to credit would not be considered as a component of or a right related to a basic payment account, whatever the purpose or the form of the credit.

Flexibility for adaptations

The purpose of the list would be to guarantee a common base throughout the EU and would not per se prevent Member States or payment services providers – depending on the national systems – from extending the range of services or functionalities offered together with a basic payment account, provided that the latter is also offered on a stand alone basis. In any case, access to basic payment account could not be made conditional on the purchase of additional services.

Setting the characteristics of a basic payment account could require the development of more detailed technical guidance or clarification at a later stage.

BEUC position

BEUC agrees with the Commission proposals⁴.

In addition to the list of services and functionalities proposed by the Commission, account management (not only the opening and the closing of a payment account) and providing account statements should also be part of a basic payment account.

Furthermore, access to online-banking should also be proposed to consumers requesting access to a basic payment account.

Possibility for low income consumers to have access to a small free overdraft facility (buffer zone) and the facility for savings should also be considered.

Different national specificities should be taken into consideration when defining a 'basic payment account':

- In Italy⁵, some forms of prepaid cards are very widespread: they have an IBAN code and allow some basic operations like credit transfers, direct debits, bill and tax payments, pension or salary crediting;
- In Greece there are two kinds of current accounts: accounts opened on the initiative of a company that wishes to pay salaries through current accounts; deposit accounts opened by consumers themselves. Thus, both accounts should be included in the definition of a 'basic payment account'.

⁴ See for example a recent research carried out by Consumer Focus in the UK:

⁴ <http://www.consumerfocus.org.uk/publications/opportunity-knocks>

⁵ See in annex a table with an analysis by Altroconsumo showing a comparison between the costs of all prepaid cards existing in Italy;

The provision stating that "access to basic payment account could not be made conditional on the purchase of additional services" would have a positive impact on consumer choice. Indeed, this provision would limit bank practices such as tying and conditional sales which may lead to reduced consumer mobility⁶.

Access to a basic payment account

Accessibility

Any consumer could have the right to access to a basic payment account, whatever his nationality or the place of his residence in the European Union.

Criteria such as the level or regularity of income, employment, credit history, level of indebtedness, individual situation regarding bankruptcy or future activity of the account could not be taken into account for the opening a basic payment account.

Possible restrictions to the access to basic payment accounts

Access to basic payment accounts could be restricted in the event that the consumer who chooses to open a basic payment account already has one payment account in the same Member State.

Access to basic payment accounts would be provided unless such access is contrary to public policy or public security obligations. The principle of access would be without prejudice to the European legislation on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, in particular regarding due diligence requirements concerning the identity of the client.

BEUC Position

BEUC agrees with the Commission proposals on accessibility.

However we do not share the Commission view on possible limitations of access to basic payment accounts:

- Today in some countries, no basic accounts are available and consumers have only access to expensive accounts. Why should those consumers be prevented to switch to a basic account when it will be implemented? A basic account can meet the needs of those consumers at a cheaper cost. Restricting access to a basic account could create a discriminatory situation between consumers, depending on the date they opened a payment account. Furthermore there is no reason to exclude consumers who only need services and functionalities listed above from access to basic accounts (see characteristics of a basic payment account).

⁶ See BEUC response to the Commission consultation on the study on "Tying and other potentially unfair commercial practices in the retail financial services sector":
<http://docshare.beuc.org/docs/1/JHGMKBLBICOJPIICKFNLDLHHOPDWD9DB6BD9DW3571KM/BEUC/docs/DLS/2010-00300-01-E.pdf>

- As to the legislation on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, see comments above.

Issue of cost

Cost for the consumer

A basic payment account should be available at a reasonable cost.

The notion of reasonable cost could require the development of more detailed technical guidance or clarification, at a later stage.

BEUC Position

Basic payment accounts should be addressed not only to financially excluded consumers, but also to those who choose to have a basic payment account without additional features such as overdraft facility and credit card. Accordingly, basic payment accounts can be provided either on a commercial or not-for-profit basis.

In any case, fees for a basic payment account must be affordable and strictly cost-based. Banks and payment services providers should not be allowed to discriminate between customers, i.e. charge unattractive customers a fee while attractive customers get the same account, free of charge.

In 2009, the Bank of Italy introduced the basic current account, an instrument of financial inclusion that banks can offer; the 5 current accounts existing currently in Italy have higher costs than on-line traditional current accounts.

The notion of 'reasonable cost' is vague and leaves room for various interpretations. A clear definition is needed.

The price of a basic payment account for financially excluded people should not exceed its actual cost. On this basis, a maximum price could be set at national level. For instance, in Belgium a maximum annual price of a basic bank account has been adopted (13.60 Euros in 2010 - indexed price).

Different national specificities should be taken into consideration when discussing the issue of price of a basic payment account:

- In the UK, banks do not tend to charge an annual fee for bank accounts including basic bank accounts. However, they do charge unpaid item charges which can be very expensive. The relevant authorities at national level should be required to set limits on specific charges and charging structures;
- In Italy, in addition to the price of the current account consumers have to pay an annual tax (34.20 Euros) which is generally equal to the price of the current account. Even if the price of the current account decreases, the tax may be deterrent. Therefore, the tax should not apply to basic payment account.

At EU level, the price of a basic payment account for financially excluded people could be harmonised so that it is actually accessible to all EU citizens. One way of standardising it would be to set the maximum relative price. Calculation of the price can be made using a percentage based on a common benchmark index such as the minimum wage, GDP or any other to be determined, on which the maximum price of a basic payment account would depend.

General information concerning basic payment accounts

Raising awareness

Measures to raise awareness among the public about the availability and the features of basic payment accounts could be required, thus contributing to a more effective access to basic payment accounts.

General information on basic payment account

When choosing to open a payment account, consumers should be given understandable information by payment services providers on, at least: the availability and the features of a basic payment account; the content and the conditions of use of a basic payment account, in particular the fact that the purchase of any additional service is not required in order to obtain a basic payment account; the cost of the payment transactions.

Measures on general information should be without prejudice to the requirements laid down by Directive 2007/64/EC concerning the provision of information to consumers.

BEUC Position

As already stressed previously, all providers should be bound to offer basic payment accounts to all citizens throughout the EU. Accordingly, all consumers must be made aware of the possibility to opt for a basic payment account, access to which cannot be made conditional on the purchase of additional services. In order to help consumers to choose a payment provider, national banks could set up a database facilitating comparison between basic payments accounts.

Basic payment accounts must be actively promoted by financial institutions. Consumer needs should be identified and a basic payment account should be recommended if it corresponds to the needs expressed by the consumer. Customers interested in opening a basic payment account should be provided with clearly worded documentation setting out the services the account provides, the fact that they are not tied to purchasing other products or services, and the cost.

Public authorities also have a very important role to play. Public information campaigns should be run in all EU Member States to raise consumer awareness of basic payment account.

Monitoring and out-of-court dispute resolution

Monitoring

Competent authorities would be appointed and rules on penalties should be laid down at national level.

Out-of-court dispute resolution mechanism

Transparent, non-discriminatory, simple and inexpensive out-of-court procedures should be available for dealing impartially with unresolved disputes between consumers and providers, without prejudice of any legal protection afforded by national law. These procedures could not hamper the establishment of complaint offices to facilitate access to dispute resolution by consumers.

BEUC Position

BEUC agrees with the Commission proposal as regards monitoring. Competent authorities should also play a role when consumers' complaints are about denying access to a basic payment account. ADR mechanisms should be simple, accessible, effective and free, both nationally and at Community level. They need to be independent as well as powerful enough in their decisions. For instance, in Germany ADR schemes are generally associated with the banking associations. This would disallow German ombudsmen to deliver binding decisions in cases related to access to payment accounts.

In case disputes involve parties in different Member States, FIN NET⁷ should be used to solve consumer complaints.

⁷ FIN Net is a financial dispute resolution network of national out-of-court complaint schemes in the EEA countries that are responsible for handling disputes between consumers and financial services providers, i.e. banks, insurance companies, investment firms and others. This network was launched by the European Commission in 2001.

ANNEX: The price of prepaid cards in Italy

Le carte prepagate potenziate. Elaborazione Altroconsumo ottobre 2010

Carta	Distribuita da	Circuito di pagamento	COSTO MEDIO ANNUO PER PROFILO	Costo di emissione	Canone annuo	Ricarica sportello	Ricarica on line	Ricarica via ATM	Prelievo ITA e UEM	Prelievo Extraeuro	Bonifici ITA e Sepa sportello	Bonifici ITA e Sepa on line
Conto Tascabile	Che Banca!	Mastercard Pagobancomat	12	0	12	0	0	0	0	3	0	0
Kdue	Banco Popolare	Mastercard Pay pass	33	6	12	2,5	0	0	2	5	3	1
SellaMoney Ricarica No cost	Banca Sella	Visa Electron	37,5	6	6	0	0	0	2	2	2,5	1
SuperFlash	Intesa San Paolo	Mastercard Paypass	41,9	0	9,9	1	1	1	2	5	3,5	0,5
Spider	Monte dei Paschi di Siena	Visa Electron Pagobancomat	53,86; on line 47,36	0	10; 7 on line	2	0	1	1,81	4	0,5	0,5
Carta Enjoy	Ubi Banca	Mastercard	64	2	12	3	0,5	1	fuori ITA 5	5	4	1
Ricarige	Banca Carige	Visa Pagobancomat	74,5	5	12	2,5	0,5	1	2	4	3,75	1
Contointasca	Credito Valtellinese	Visa Pagobancomat	75	0	0	2,5	1	1,5	1,5	3,5	4	2

Come si legge la tabella. Costo medio su due anni (emissione e secondo) calcolato per il seguente utilizzo: accredito dello stipendio o della pensione, 6 prelievi ATM banca, 6 prelievi ATM altra banca, 12 bonifici ITA, 6 bonifici Sepa, 12 versamenti di contanti. Il prelievo su sportelli della banca è sempre a costo zero. np = operazione non possibile. Sepa = single european payment area include 31 paesi: oltre i paesi Uem anche Regno Unito, Svezia, Danimarca, Estonia, Lettonia, Lituania, Polonia, Repubblica Slovacchia, Ungheria, Bulgaria, Romania