

Payment and Related Innovation Update
17 October 2012



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1. REGULATORY DEVELOPMENTS

1.1 **Europe:** European Parliament publishes "Roadmap to Digital Single Market"

- The report assesses the state of play and next steps (including priorities) for implementing a Digital Single Market by 2015.
- Annex 1 to the report gives a timetable of recent and pipeline legislative (or other) initiatives.

See the report [here](#)

1.2 **Europe:** Commission third issues paper on Payment Services Directive ("**PSD**") review

- The Commission has circulated a third issues paper on its review of the PSD. As with the previous two papers, it has been circulated to various stakeholders but not published. The issues are currently being debated in Brussels, and will inform the Commission's report on the PSD due in November.
- The paper covers much of the same territory as the second issues paper (see our past update), and suggests that the Commission:
 - is going off the idea of merging the PSD with the E-Money Directive;
 - continues to favour extending certain PSD requirements to one-leg out transactions, i.e. going to or coming from outside of the European Economic Area ("**EEA**"), and to transactions in non-EEA currencies;
 - is increasingly focussing on the scope of the PSD, with a number of payment services (e.g. money remittance, merchant acquiring and payments by digital devices) and exemptions (e.g. limited network and download exemptions) needing to be clarified or narrowed;
 - would like to simplify capital and safeguarding requirements for payment institutions;
 - recognises a need to clarify and standardise the regime for a payment institution licensed in one EEA State to "passport" its licence into other EEA States;
 - doesn't see opposition to payment institutions being given direct access to payment and settlement systems;
 - is exploring ways to improve pricing transparency;

- is open to shortening the two months' notice period for certain types of unilateral variation to customer contracts e.g. where changes would benefit the customer;
- doesn't see a clear way forward on promoting, banning or regulating surcharging;
- favours requiring certain refunds to be backdated;
- may shake up the position on liability for unauthorised transactions (including making it harder to charge them back to merchants); and
- sees damages as an alternative to refunds for improper or late execution of payment transactions.

1.3 **United Kingdom:** Financial Services Authority ("**FSA**") updates PSD approach document

- The FSA has published an updated version of its payment services approach document. It largely implements draft changes consulted on in April 2012. The final changes are generally consistent with those proposed in the consultation, with, in particular, the FSA providing more explanation of its views on the withdrawal of consent for recurring transactions.
- The FSA has also added new content in a couple of areas, including (1) clarifying that it considers 'earmarking' permitted for payments (such as pre-authorized card transactions) where the payer's bank has promised that the payee will receive payment on a particular future date; and (2) stating that a customer withdraws their consent for future direct debits or recurring transactions when they close their account.

See the approach document [here](#) and [here](#)

1.4 **United States:** Federal Government Accountability Office report on mobile location data

- The report stems from a continued push by Senator Franken for privacy legislation with an emphasis on location-based services.
- While remaining supportive of the Government's ongoing privacy efforts through the Federal Trade Commission ("**FTC**") and the National Telecommunications & Information Administration ("**NTIA**"), the report encourages the Government to go further.
- In particular, it calls on the NTIA to "*develop specific goals, time frames, and performance measures for [creating] industry codes of conduct,*" and suggests that the FTC "*consider issuing industry guidance [on] the appropriate actions by mobile companies with regard to protecting mobile location data privacy.*"

See the report [here](#)

2. **PAYMENTS MARKET DEVELOPMENTS**

2.1 **United Kingdom:** RBS and NatWest launch TouchPay contactless payments app

- RBS and NatWest have launched TouchPay, a mobile contactless payment app which operates in conjunction with an iPhone cover incorporating near field communications ("**NFC**") functionality.
- TouchPay can be used to make purchases of £20 or less at contactless-enabled terminals. Availability will initially be limited to the first 1,000 people to register, but will soon be extended to all RBS and NatWest customers who have iPhones.

See a report [here](#)

2.2 **United Kingdom:** NatWest suspends Get Cash app after it is targeted by fraudsters

- The NatWest Get Cash app allows customers to withdraw money from an ATM (i.e. a cash machine) by using a security code instead of a card.
- Following a number of cases of fraudulent use of Get Cash (possibly resulting from phishing attacks), the bank has suspended the service while it adds to its security, and has promised to refund any losses to customers.

See a report [here](#)

2.3 **South Africa/United Kingdom:** Powa white labels its chip and PIN dongle

- UK-based Powa provides the mPowa app and card reader (or 'dongle'), which enable merchants to take card payments through their smartphones by way of a Bluetooth connection. Unlike the rival Square dongle, mPowa is based on a chip and PIN reader.
- Powa has announced a 'white label' deal with South Africa's First National Bank, and is thought to be discussing a similar deal with a major UK high street bank.

See a report [here](#)

2.4 **United States:** Starbucks to start accepting Square Wallet payments

- As well as being a dongle provider, Square provides the Square Wallet app, which enables consumers to use their phones to make payments from a linked payment card.
- Starbucks recently invested in Square, and has now announced that it will accept payments from Square Wallets across all of its US stores as of November 2012. (Starbucks is an early adopter for mobile payments, and indeed launched its own payment app in January 2011.)
- Initially Square Wallet customers will be able to pay by having a bar code generated on their smartphone scanned at the Starbucks point of sale. At a later stage, Square's global positioning system will enable Starbucks cash registers to detect a customer's phone, with the customer able to pay by giving their name to the Starbucks cashier, who can then verify the customer against a name and photo popping up on the cash register screen.
- Square will also process Starbucks' credit and debit card payments, which will lower the processing fees for the company.

See a report [here](#)

2.5 **Israel:** Supermodel backs MyCheck billing app

- MyCheck, an Israeli start-up founded in 2011, has received backing and investment from Bar Refaeli, an Israeli supermodel. MyCheck is a mobile payment app which allows the user to view and pay their restaurant bill at any point during their meal, with no need for additional interaction with waiting staff.
- The app also allows the user to split the bill between an unlimited number of people, and to leave a tip. On payment, a receipt is generated and is automatically emailed to the user.
- Although the app is currently only available in Israel, the company plans to launch in the US and UK.

See a report [here](#)

3. **OTHER MARKET DEVELOPMENTS**

3.1 **Worldwide:** Facebook launches Facebook Gifts

- Facebook has launched Facebook Gifts, which enables users to purchase and send physical gifts or virtual gift cards to their Facebook friends, based on their profiles. The service is available online or through a mobile app, and represents a push by Facebook to grab a share of the lucrative e-commerce market.
- Facebook Gifts also stores payment details for future transactions and allows the recipient of the gift to confirm the correct shipping address and specifics of the gift before it is sent, solving a major problem with online gift-giving.

See a report [here](#)

4. **PRIVACY AND IDENTITY**

4.1 **Europe/Asia Pacific:** Google told to change its privacy policy

- Earlier this year, the Commission nationale de l'informatique et des libertés ("**CNIL**", the French data regulator) was tasked by the European Union ("**EU**") to investigate Google's merger of over 60 individual privacy policies into one single policy, which (among other things) allowed Google to start combining personal data from across its different services.
- CNIL has published a number of recommendations, including that Google should be more transparent about what data is being gathered and how it will be used, and should give more control to consumers over how their data is combined.
- The recommendations have so far been approved by 24 of the 27 regulators in the EU. Google now has "three to four months" to take action, or face the possibility of litigation in a number of EU States.
- Various Asia Pacific privacy authorities have also expressed support for several of CNIL's recommendations.

See reports [here](#) and [here](#)

4.2 **United Kingdom:** Government to rely on third party logins as ID authentication

- The UK government will shortly announce plans for people to use third-party online account details as official identification to access public services.
- The scheme, which has been named the "Identity Assurance Programme", will allow people to use login details registered with approved third parties (for example, certain social media, banks and mobile operators who have been awarded the "Identity Provider" kitemark) to verify their identity. Once a person has logged in to their third party account, the third party will send a message validating the person's identity to the government agency.
- The government believes the new system will prevent 'login fatigue' by limiting the number of online accounts that people are required to hold. To assuage privacy concerns the government has been working with leading privacy groups and will not (1) store the login details for the third party site or (2) allow the third party to know which government agency has requested the customer authentication.

See a report [here](#)

5. **SURVEYS AND REPORTS**

5.1 **United Kingdom:** Payments Council report on future of payments

- The Payments Council has published a report predicting the payments technology that will be in use in 2025. The report contains a review of the last ten years, a survey of consumer attitudes to future payments and predictions made by "futurologist" Dr Ian Pearson.
- Dr Pearson suggests that NFC-enabled 'security jewellery', payments by handshake and fingerprint payments could be just some of a number of innovative payment systems in operation by 2025.
- The report also points out that the development of any new payment technologies will go hand-in-hand with additional security risks, but suggests that innovations such as 'secured payment zones', with local physical security, may be an efficient way of dealing with such risks.

See the report [here](#)

Contacts

Ben Regnard-Weinrabe

Partner

Hogan Lovells International LLP

Atlantic House

Holborn Viaduct

London EC1A 2FG

Tel: +44 20 7296 2000

Direct: +44 20 7296 5649

Fax: +44 20 7296 2001

Email: ben.regnardweinrabe@hoganlovells.com

www.hoganlovells.com

Mark Taylor

Partner

Hogan Lovells International LLP

Atlantic House

Holborn Viaduct

London EC1A 2FG

Tel: +44 20 7296 2000

Direct: +44 20 7296 5370

Fax: +44 20 7296 2001

Email: mark.taylor@hoganlovells.com

www.hoganlovells.com

Timothy Tobin

Partner

Hogan Lovells US LLP

Columbia Square

555 Thirteenth Street, NW

Washington, DC 20004

Tel: +1 202 637 5600

Direct: +1 202 637 6833

Fax: +1 202 637 5910

Email: tim.tobin@hoganlovells.com

Blog: www.hldataprotection.com

www.hoganlovells.com

Mark Brennan

Attorney at Law

Hogan Lovells US LLP

Columbia Square

555 Thirteenth Street, NW

Washington, DC 20004

Tel: +1 202 637 5600

Direct: +1 202 637 6409

Fax: +1 202 637 5910

Email: mark.brennan@hoganlovells.com

Blog: www.hldataprotection.com/

www.hoganlovells.com

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