

Payments Innovation News Update
30 May 2012



Payments Innovation News Update

30 May 2012

For our latest news and commentary on payments innovation, follow us on Twitter [@HLPayments](#).

1. REGULATORY DEVELOPMENTS

1.1 **Europe:** General Court of European Union (EU) upholds European Commission finding on anti-competitiveness of multilateral interchange fees (MIFs) set by MasterCard

- The General Court has upheld the Commission's finding that MIFs charged by card issuers through the MasterCard scheme were uncompetitive.
- In particular, the Court rejected arguments that MIFs were objectively necessary to the operation of the MasterCard scheme.
- The decision applies to MIFs within the European Economic Area or euro area, excluding those agreed bilaterally between issuing and acquiring banks or interchange fees set collectively at a national level.
- MasterCard has indicated it will appeal the decision, but will in the meantime continue to apply 0.2% fees for debit cards and 0.3% for credit cards, as agreed in its 2009 settlement with the Commission.

See a report [here](#) and the decision [here](#)

1.2 **Europe:** EU releases proposed timetable for implementation of draft Data Protection Regulation

- The European Commission published its proposed draft Regulation in January. In its current form, it contains measures that will harmonise and tighten data protection and enforcement across EU member states, including creating new rights for data subjects such as the right to be forgotten and the right to data portability.
- While unforeseen delays cannot be excluded, under the proposed timetable a plenary vote of the European Parliament on the finalised text of the Regulation is expected to take place in early 2014.

See a report from the Hogan Lovells data protection team [here](#)

1.3 **Europe:** Continued probe into Google privacy policy changes

- France's information commission, CNIL, will be meeting with Google to seek a further explanation of recent changes to its privacy policy (including to allow pooling of user data across Google's services), as it seems the CNIL is not yet "totally satisfied" by Google's responses to its recent questionnaire.
- As reported in a previous news update, CNIL is acting on behalf of an EU Working Party, and its findings are likely to be followed across all EU states.

See a report [here](#)

1.4 **United States:** US anti-terror legislation hampering growth of cloud computing for EU businesses, although Hogan Lovells White Paper shows US not alone

- Under the USA Patriot Act, the US Government can require US-owned cloud service providers to disclose data without the authorisation or knowledge of the data subjects.
- The provisions of the Act are seemingly incompatible with both current EU regulation and the draft new EU Data Protection Regulation.
- The threat of having to disclose data to the US Government has seemingly impeded the take-up of cloud services in Europe. For example, BAE Systems has reportedly opted against using Microsoft Office's 365 cloud-based service because they could not be certain that the data they uploaded to the cloud would be kept in Europe.
- Hogan Lovells' data protection team have published a White Paper on the security of data in the cloud and the ability of governments in various jurisdictions (including the USA) to require the disclosure of such data. In contrast to media reports, the USA is not alone in being able to require the provision of businesses' data stored on the Cloud.
- Some jurisdictions even authorise the voluntary disclosure of data from the cloud to governments, whereas the US government may only acquire such information through due legal process.

See a media report [here](#) and a multi-jurisdictional analysis of data protection issues relating to the cloud from the Hogan Lovells data protection team [here](#)

1.5 **Canada:** Canadian banking industry releases blueprint for mobile contactless payments

- The Canadian Banking and Credit Union's industry body has released guidance setting standards on matters such as information sharing and security for mobile contactless payment schemes using near field communications (**NFC**) technology.
- A notable feature of the guidance is that the information available to a provider of related services is kept to the minimum required to perform its role. For example, only a mobile wallet provider should have access to data about the products stored on the wallet, but even then only as needed to service the wallet, and the wallet provider should not have access to the user's transactional data.
- This could be unwelcome news for wallet providers (which are often mobile network or technology providers) whose business models are predicated on "mining" transactional data, and might be seen as a defensive move by the Canadian banking industry.
- The guidance is designed to fit both with Canadian financial services regulation and (to improve interoperability) with international standards. The guidance comes as part of a wider scheme to promote a payment innovations ecosystem in the country, following a recent report from the Canadian Central Bank (as reported in a past news update).

See a report [here](#) and the full guidance [here](#)

2. MOBILE PAYMENTS DEVELOPMENTS

2.1 **United Kingdom:** iZettle (the "Swedish Square") launches in UK

- iZettle is a mobile payments app linked to a card payment acceptance device (i.e. "dongle") which slots into iPhones and iPads, with a version for Android phones due to be released soon. Interestingly, the dongle seems to be based on chip and signature rather than chip and PIN.
- It is being pitched at small businesses or sole traders that do not already take card payments, and is kicking off by giving away 3,000 card readers.
- Although only four months since its launch in Scandinavia, it appears to have experienced strong growth and has an average transaction value of €60, compared with €10 to €15 for NFC transactions, albeit this is based on relatively small transaction volumes.
- iZettle is charging on a merchant's commission basis with the percentage varying by country, having recently dropped a transaction fee. It plans to expand into other European markets soon.

See a report [here](#)

2.2 **United Kingdom:** Barclays extends Pingit to business customers

- Pingit, an app which allows retail payments to be made to a mobile phone number, has now been extended to enable larger businesses and Barclays Corporate banking customers to make and receive payments.
- A previous daily transaction limit of £5,000 has been removed to enable businesses to receive e.g. unlimited bill payments.
- Businesses can apply for their own unique corporate IDs and quick response (QR) codes to ensure easier and faster receipt of payments from customers.

See a report [here](#)

2.3 **United Kingdom:** PayPal to launch inStore app in UK

- The app is available for use in the UK from 31 May, allowing users to pay in-store from their PayPal account. The app can initially be used in a number of Aurora Group outlets (Oasis, Coast, Warehouse and Karen Millen).
- Customers will use their smartphone (Android or iOS) to generate a unique barcode and transaction number. The barcode is scanned at checkout (or the transaction number entered manually) to take payment from the customer's PayPal account. There is, as such, no need for NFC-enabled hardware.
- Customers can only open the app by entering a PIN and will automatically be logged out after 20 minutes of inactivity.

See the PayPal website page [here](#)

2.4 **United States:** Ziptip enables mobile users to tip using QR codes

- An app allows people to tip service providers (such as waiters) by scanning a QR code and sending funds from their own account (linked to a PayPal account). The tipper pays Ziptip 1 per cent of the tip.
- Service providers can order business cards, tags and even shirts from Ziptip that display their unique code for scanning.
- Ziptip is available for download on iPhone and Android phones in more than 20 countries.

See a report [here](#)

2.5 **United States:** Verifone changes SAIL user agreement after allegedly copying rival

- Following the recent launch of its SAIL mobile payments acceptance platform (as reported in a previous news update), Verifone has amended its merchant user agreement after a commentator pointed out supposed similarities to Square's agreement.
- This may be symptomatic of the pressure to bring new products speedily to market in the mobile arena, and businesses should be aware of the potential legal risks of infringing competitors' copyright.

See a report [here](#)

3. **OTHER PAYMENTS DEVELOPMENTS**

3.1 **United Kingdom:** Barclaycard to launch PayBand at July's Wireless Festival

- All retailers at the Hyde Park festival will be able to accept contactless payments so festival goers can swipe and pay with a NFC wristband.
- To address security concerns, Barclaycard are guaranteeing 100% of any loss following the report of a lost or stolen wristband.
- The offering builds on Barclaycard's existing NFC ventures, including Paytag and QuickTap. To encourage take-up Barclaycard is offering £5 credit on top up, and other benefits. The pay bands will be deactivated after the festival and any funds remaining will be refunded.

See a report [here](#)

3.2 **United Kingdom:** Transport for London (TfL) delays roll out of contactless cards payments

- TfL has confirmed it will not now start a full roll out of NFC technology using contactless enabled MasterCard and Visa cards on its networks before 2013. In the meantime, a trial will be run on a small number of buses prior to the Olympics to ensure the system is robust and secure.
- TfL are responding to concerns raised by the London General Assembly in November that its proposals would suffer from teething problems and would not secure the financial savings envisaged.

See a report [here](#)

3.3 **Australia:** Australian Payments Clearing Association report on transition from cheques to electronic payments

- The Association is proposing a range of policies to ensure the growth of electronic payments
- Its report suggests that innovative payment systems are accelerating the decline of cheques, but that more should nonetheless be done to improve the efficiency of cheques processing.

See a report [here](#)

4. **OTHER RELATED INNOVATION**

4.1 **United Kingdom:** Barclays release report on opportunities offered by social media to retailers

- Barclays research suggests that 41% of the UK's consumer population will have their shopping habits influenced by social media by 2021.
- Barclays expects sales influenced by social media to more than double to £3.3bn in the next five years, particularly for fashion, footwear, music, film and groceries, indicating the potential benefits of tapping into this trend now.

See Barclay's press release [here](#) (where you can also request the full report)

4.2 **United States:** Facebook acquires gift app Karma

- Karma is an app for iPhone and Android devices that connects with your Facebook account to collect information about your friends. It then suggests gifts and cards based on your friends' activities – not only for birthdays, but also for a range of other occasions, including engagements, holidays or even a win for their football team.
- Gifts can be sent without requiring the recipient's address as this is filled in by the recipient, who can also opt to donate the gift to charity instead.
- Unlike other recent Facebook acquisitions such as Tagtile (the rewards app – see a previous market update), Karma is set to maintain its unique identity following its takeover.

See a report [here](#)

4.3 **New Zealand:** Facebook trials pay-to-promote tool

- Facebook users can now pay for posts to be more prominent to their friends. Reports suggest that most posts cost in the region of £0.25 to £0.50 to promote, with some as much as £1.25. Payments can be made by card or through PayPal.
- The trial is designed to test users' appetite for paying to make themselves and their activities more prominent on Facebook. As users, including companies, can effectively use Facebook pages for free advertising and marketing, the trial is an indication that Facebook is looking for new revenue streams following its recent NASDAQ flotation.

See a report [here](#)

5. SECURITY

5.1 **United States:** PCI Security Standards Council releases new security guidance for accepting mobile payments

- The PCI has released guidance for companies proposing to accept mobile payments (e.g. through Square or PayPal Here dongles) so that they understand their responsibilities.
- The council's assessors will vet products and develop a list of solutions that have acceptably encrypted customer information during processing. This should help merchants be PCI compliant, reducing their exposure or scope to PCI compliance vetting.

See a report [here](#)

5.2 **United States:** MasterCard releases guidance for mobile payments dongles

- The guidance is aimed at acquirers, software developers, merchants and issuers to enable interoperability in the design and function of mobile payment acceptance devices such as dongles.
- Issues covered under the best practice guidelines include common security problems and tips for cardholder verification.
- As well as promoting the branding of products with their own acceptance mark, MasterCard's guidelines represent their advice to stakeholders on complying with the PCI security standards detailed above.

View the guidance (in PDF) [here](#)

5.3 **United States:** Twitter backs "Do Not Track" campaign to enable anonymous browsing of the internet

- "Do Not Track" is a standardised privacy initiative that has been heavily promoted by the US Federal Trade Commission, among others.
- Users of Firefox, Microsoft's Internet Explorer and Apple's Safari, can select a "Do Not Track" option that sends a line of code to websites indicating the user does not want their visit to be tracked using cookies. It is currently up to the website to honour the requests although the FTC may take action if the requests are ignored.
- Google has indicated that it will introduce a "Do Not Track" feature in its Chrome browser later this year.

See a report [here](#)

www.hoganlovells.com

Hogan Lovells has offices in:

Abu Dhabi	Colorado Springs	Houston	New York	Silicon Valley
Alicante	Denver	Jeddah*	Northern Virginia	Singapore
Amsterdam	Dubai	London	Paris	Tokyo
Baltimore	Dusseldorf	Los Angeles	Philadelphia	Ulaanbaatar*
Beijing	Frankfurt	Madrid	Prague	Warsaw
Berlin	Hamburg	Miami	Riyadh*	Washington DC
Brussels	Hanoi	Milan	Rome	Zagreb*
Budapest*	Ho Chi Minh City	Moscow	San Francisco	
Caracas	Hong Kong	Munich	Shanghai	

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses.

The word "partner" is used to refer to a member of Hogan Lovells International LLP or a partner of Hogan Lovells US LLP, or an employee or consultant with equivalent standing and qualifications, and to a partner, member, employee or consultant in any of their affiliated businesses who has equivalent standing. Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney Advertising.

For more information see www.hoganlovells.com.

© Hogan Lovells 2012. All rights reserved. LIB01/2550733.1

*Associated offices