

# Position Paper on the revision of the Payment Services Directive 2

Ecommerce Europe welcomes the assessment of the application and impact of the Payment Services Directive 2. The Directive has provided the foundation for a regulated open-banking framework, and defined the tools to secure transactions across the EU. However, PSD2 has not yet yielded the expected shift in the European retail payment market, and the benefits have not fully materialised, especially for payment service users.

We believe that a thorough assessment and a possible revision of the PSD2 are necessary in order to address two key issues. On the one hand, there are remaining barriers and regulatory gaps in the current directive which directly impact the fulfilment of its original objectives. On the other hand, the evolution of the retail payment market since the adoption of PSD2 could warrant a revision of certain aspects of the directive to ensure the relevance of the framework.

## Key Recommendations

1. Build on the PSD2 framework and address the existing shortcomings of the PSD2 and its implementation at national level that are preventing the Directive from fulfilling its objective to foster open banking in the EU
2. Ensure that the implementation of Strong Customer Authentication focuses on its objective of securing transactions without scarifying authentication success rates and consumer experience. This includes better and harmonised enforcement of existing standards (e.g. exemptions), future-proofing of the standards, and re-evaluating the role of merchants in fraud prevention.
3. Leverage the revision of PSD2 to touch upon connected issues such as competition, transparency and costs of payments in the EU.

### Building on the PSD2 framework and addressing the remaining shortcomings

The PSD2 has created a clear regulatory environment for the development of open banking in the EU and has allowed for legal certainty for new services such as AISPs and PISPs. It has therefore created the right conditions for the development of new services, accompanying the evolution towards increased digitalisation and evolving consumer preferences.

However, we believe that the overall success of PSD2 has been severely hampered by several factors. This has had a clear impact on innovation and the development of new added-value services from third-party providers that should have benefited merchants and consumers. The share of new payment services based on open banking remains low and these solutions have not reached a sufficient level of maturity to compete against established payment methods. Because of the remaining barriers, the impact on the merchant's community at EU level remains limited, in terms of widely accepted new solutions and costs. The limited impact on competition means that payment service users have not benefitted from a decrease in the cost of payments.

This is particularly relevant for cross-border commerce, where the lack of coordination and standardisation of APIs across the EU seems to have limited the growth of pan-EU solutions.

We recommend the European Commission assesses the following issues:

- Leverage the revision of PSD2 to ensure **maximum harmonisation** between Member States in terms of interpretation of rules and definitions.
- **Improve the level playing field between card-based payments and other payment methods**, as card-based payments tend to benefit from a competitive advantage, especially in terms of accessing exemptions. In a number of EU markets, there is only a limited (or no) possibility to use SCA exemption, because APIs are not designed to support such exemptions. On the contrary, card-based payments are able to rely on these exemptions to improve customer experience. There are also differences in terms of information and transparency requirements imposed on PIS providers, compared to card-based payments.
- Assess the experience of TPPs with accessing dedicated interfaces across the EU and consider how to better coordinate preparation and enforcement across the EU
- **Pursue standardisation efforts regarding the development of APIs** and coordinate to facilitate accessing accounts across the EU payment market. Having to integrate with several banks with all different processes and API continues to make this process lengthy and costly. The risk is that new players might not be able to offer cost-effective services. :
- **Assess possible high barriers to entry for new players.** We recommend considering the impact of authorisation time and administrative burden placed on start-ups, as well as clarifying and harmonise the mandate of national competent authority to ensure alignment with the EU's objectives.

In general, the implementation of the PSD2 has been challenging, in big part due to the lack of coordination between actors in the payment market. There has been a lack of communication and compliance which has not been addressed sufficiently by competent authorities. Rather than new rules, better enforcement and monitoring are required. This has been true also for the implementation of the RTS on SCA.

## Ensuring future-proof rules and standards for Strong Customer Authentication

Ecommerce Europe has welcomed the Regulatory Technical Standards (RTS) on Strong Customer Authentication's objectives to reduce fraud. However, as highlighted throughout the implementation process, the lack of preparedness and support, together with a fragmented implementation of the rules at national level has resulted in significant costs and loss of revenues for merchants in the EU. Additionally, SCA has made it disproportionately difficult for customers to complete e-commerce transactions relative to the benefit offered SCA offers.

**In light of the evolving types of fraud and the need to address existing shortcomings with the interpretation and implementation of SCA, we would recommend targeted actions by competent authorities.**

While this would require further assessment, there is evidence of evolving types of fraud, for example, the growth of fraudulent operations with non-EU cards in e-commerce. There is also a growing issue of authorised push scams. This type of fraud is complex and takes advantage of consumers' lack of awareness and is usually associated with means of payment where there is no (or not yet) dispute process (or chargebacks) which can be used. We encourage the Commission to coordinate communication campaigns about new types of fraud towards consumers, together with the EBA, National Competent Authorities and actors of the payment chain.

**Re-assess the role that retailer's fraud prevention and authentication process can play.** Today, retailers lack the possibility to indicate the result of the risk assessment of the transaction and, if applicable, information about the customer authentication already carried out, to the issuer. **Retailers' data should be taken into account when requesting an exemption based on a transaction risk analysis.** This should be part of a broader reflection on the need to give more value to merchant data – better quality data means higher security and less friction.

As a means to ensure both security and convenience, we suggest focusing on customer access and transaction efficiency by ensuring banks can offer intuitive and latency-free authentication customer experience. In particular, **we suggest setting Authentication Success Rates (ASR) targets to monitor issuers' performance**. Currently, the large variance in ASR is reflective of a sub-optimal customer experience and a lack of standardization in authentication approach, which can be observed across issuing banks/countries.

The utilization of SCA exemptions has proved critical to maintaining transaction efficiency for customers. However, transaction efficiency has been significantly affected by inconsistent application and acceptance of exemptions across issuing banks. Issuers take different approaches (or have different levels of sophistication) to monitoring and managing fraud for their customers. The result is an uneven application of TRA, often leading to an inferior customer experience. Ecommerce Europe advocates in favour of **establishing a consistent approach across countries and issuers to applying exemptions**. Performance on TRA and Trusted Beneficiary (TB) exemptions adoption should be reported quarterly at an issuer and country level, with action taken to ensure exemptions are honored consistently across all geographies.

We also encourage the European Commission to assess use-cases where SCA has proven impossible to apply as it is and propose updated interpretations. An example would be “central” business credit card that can be used by several employees in one organisation. Because of SCA requirements, these cards can no longer be used. Allowing to send verification to various phone numbers or addresses previously verified could be a solution to some of these B2B use-cases.

## Promoting further transparency and competition

As described above, the PSD2 did not fully achieve its objective to promote more competition in the EU retail payment market. **An important development potentially requiring further scrutiny, linked to the strong presence of international card schemes on the European market, is the rise in costs associated with card payments for merchants**. Retailers have already communicated their concerns regarding the limited impact of the Interchange Fee Regulation on the competitiveness of the EU market and the growing impact of scheme fees from major card schemes in EU merchants.

The rise in the costs of cards also includes new fees directly related to the use of 3D-Secure, which merchants are obligated to rely on to comply with SCA. We encourage the European Commission to assess the impact of such new SCA-related costs, as well as the interplay with the Interchange Fee Regulation as new (unregulated) fees imposed by international card schemes develop.

Ecommerce Europe would also like to highlight another potential source of difficulty for merchants in relation to transparency, including in the acquiring market. A defining part of the discussion on the cost of payments for merchants is related to their relationship with card acquirers and the evolution or breakdown of the merchant service charge. Merchants are rarely empowered to request further information and transparency on the services and the breakdown of their costs. When communicated, the breakdown of the merchant service charge often lacks clarity. But the question of transparency for merchants also goes beyond costs and can impact merchants' ability to control and improve the quality of services and in turn the experience of customers. This situation places merchants in a weaker position for negotiation with their partners and can structurally impact the level of competition in the market.

As recently identified in a [report](#) by the UK Payment Systems Regulator on the card-acquiring market, small and medium merchants sometimes experience issues such as the lack of transparency for merchants, the difficulty to change providers, as well as the question of rising costs. We believe the European Commission could play a role in assessing if these issues are also widespread in the EU, and whether new transparency requirements could be needed to foster competition.