EDPIA
The European Digital Payments Industry Alliance

EDPIA views on the Digital Euro proposal – *October 2023*

EDPIA believes that a well-designed digital euro has the potential to support innovation in the EU retail payments market on its own terms.

As a matter of priority, EDPIA believes that co-legislators should re-consider the strong market intervention proposed in the current text. While there are reasons for capping inter-PSP fees, there is not a compelling case for capping the merchant service charge. Indeed, this could have detrimental effects on the digital euro ecosystem. We further believe that the proposed benchmarking exercise could distort the market by placing an exaggerated focus on price rather than other competitive factors (such as service quality). This would affect not only the digital euro ecosystem but Europe's wider digital payments market.

EDPIA believes that the following principles are paramount for the success of the digital euro:

1. **Pricing should be set by competition in highly competitive parts of the sector** – except where there is a well-established competition reason to intervene, as on the inter-PSP fee.
2. **Merchants should be able to choose which payments means they accept** – in the same manner as other electronic payment means such as cards or instant payments.
3. **PSPs should have equal opportunity to distribute the digital euro** – to boost competition and ensure a level playing field.
4. **The scheme should be governed in an open, independent, and balanced manner** – those accounts for the interests of different parts of the payments market, merchants, and consumers.
5. **The rollout of the project should have a pragmatic roadmap** – which is ambitious enough to be appealing to citizens without being so ambitious that targets will be missed (which hurts trust).
6. **Scenarios where the central bank will access data must be very clear** – to meet the expectation of privacy from citizens.

1. Pricing should be set by competition in highly competitive parts of the sector

The successful uptake of the digital euro will depend on a vibrant and competitive retail payments market, where firms are proportionately compensated for their investments.

Price intervention risks undermining the incentives for payment firms to develop the services which will ultimately make the digital euro a compelling proposition.

It is vital to pay attention to the competitive dynamics of the different parts of the payment sector.

The proposal regulates two main fees (*for further information see annex 1*):

There are well-established competition reasons to cap inter-PSP fees.

The inter-PSP fee is roughly analogous to the interchange fee in the card market. The competition case for capping these kinds of fees is well documented. The European Commission has established that there is no efficient market mechanism to determine an optimal inter-PSP fee. Such fees are not subject to direct negotiation and competition at consumer or merchant level, and that insulates them from competitive pressure.

There is no compelling case to cap the merchant service charge.

The merchant service charge includes the inter-PSP fee, scheme fees, and charges from the merchant's PSP to the merchant (for the PSP's services).

The merchant service charge is set by competitive bargaining between PSPs and merchants and reflects the risks inherent to the payment market as well as the overall package offered to the merchant, which can often include value-added services.

The price regulation of merchant service charges has previously been considered by the European Commission during the development of the Interchange Fee Regulation. This option was discarded, however, with the 2013 Impact Assessment, which found that it “would raise many issues in terms of subsidiarity, proportionality and practicability”[1]. Similarly, the Commission found that this type of retail price regulation, as opposed to the wholesale price regulation of Interchange Fees would reduce bargaining between PSPs and merchants by “freezing” competition.

There is fierce competition from PSPs today for merchant’s business, and we can expect this to continue with the digital euro.

The proposal suggests that “merchants would have no choice but to accept digital euro payment transactions”. However, competition between a range of providers places a downward pressure upon prices for merchants just the same. Even if it is mandatory for merchants to accept the digital euro, they will have many PSPs competing for their business. Making it mandatory for a merchant to choose *some* PSP does not undermine the merchant’s negotiating position – because the merchant can equally take their business to a range of different providers. This is similar to arguing that car insurance being mandatory means that car insurance prices must be capped. The argument that mandatory acceptance justifies a cap on merchant service charge would imply that there is a lack of competition or a market failure in the acquiring space, which is contrary to the increasingly competitive merchant acquiring market that we see in Europe today. This would prevent acquirers from sustainably providing high quality services to merchants.

EDPIA believes that removing price flexibility in the context of merchant service charges could profoundly harm the payment ecosystem. Market competition will be crucial to drive the value of a digital euro, and price intervention should only be considered in response to demonstrable market failures which certainly cannot be identified *ex-ante.* This major intervention would require substantial evidence that we simply do not believe exists.

This price intervention could increase the barrier to entry for PSPs to offer digital euro acceptance solutions, and negatively affect the quality of the service that PSPs offer, and their incentive to innovate. Today, PSPs compete not only on price but on the quality of their offering, which could obviously be undermined if providers cannot charge higher prices for better services.

EDPIA fully supports fair competition in this market. We further note that regulators can continue to monitor the market and have a range of options to promote competition in a healthier manner, for example by seeking to ensure that merchants have good information.

Lastly, we note that the proposal implies a consistent maximum cap across Europe. At present in the EU retail markets, charges vary across jurisdictions for various reasons, such as for the costs associated with different kinds of customers and the different business models in place. In this context, we do not think that such a “one-size-fits-all” approach will work efficiently in practice. This could also distort choices between different currencies artificially.

[1] IFR Impact Assessment, SWD (2013) 288, Volume 2/2, Page 195.

EDPIA suggests:

Remove the cap on merchant service charges associated with transactions in digital euro. This would involve removing all mentions of ‘merchant service charge’ from Article 17 of the proposed regulation, clearly differentiating it from the inter-PSP fee.

2. Merchants should be able to choose which payments means they accept

EDPIA recognizes the political commitment from European policymakers to provide the digital euro as a widely accessible means of payment. As a payment means, it should however be approached on the same level as other payments means wherein its uptake depends on its appeal.

We believe that strict obligations for merchants to accept the digital euro could distort competition within the payments market.

The uptake of a payment solution ultimately depends upon its appeal in terms of reachability, pricing, functionality, and user experience. Today this is provided by market competition. Mandating the acceptance and distribution of a digital euro risks undermining that competition, especially if it is accompanied by price regulation (as above). Indeed, the digital euro benefits from other unique advantages such as fair, reasonable, and non-discriminatory access to mobile devices. Other means of electronic payments should receive similar access to allow a level playing field for competition between payment systems. [2]

Mandating the acceptance of the digital euro is disproportionate to its goals and raises the risk of sparking network effects that could crowd out private sector solutions. For comparison, PIX was launched by the Brazilian central bank in 2020 with a significantly less invasive combination of features than the digital euro proposal – with mandatory distribution only for large entities, no mandatory acceptance, and no price intervention – and has still become a hugely successful payment means in Brazil within only three years[3].

EDPIA understands the desire for legal parity between digital euro and physical cash. However, legally mandating the acceptance of physical cash could potentially undermine the various benefits offered by the digitalization of the payment system: which range from reducing carbon emissions to reducing the incentive for violent attacks on shops and other types of financial crime.

This of course ties in with a wider social debate around financial inclusion and accessibility, which is a policy motivation that EDPIA naturally understands. However, the inclusion benefits stemming from the measures proposed feel relatively marginal compared to their costs. Shops that are not digitalized would remain not digitalized, given their exemption from the framework, and citizens who prefer not to use digital payment tools presumably would still prefer not to use a digital euro. The target audience addressed by the mandatory acceptance provisions therefore feels relatively niche. Given the cost involved, we believe that public investment to help citizens get up and running would have merit.

EDPIA suggests:

Adopt a narrower conception of legal tender, as already exists in much of Europe. Merchants should be left to choose their preferred solution.

[2] https://www.edpia.eu/edpia-views-on-how-the-dma-can-boost-competition-in-the-payments-ecosystem/
[3] Brazil’s PIX used for more transactions than credit and debit cards combined

3. PSPs should have equal opportunity to distribute the digital euro

EDPIA supports equality between PSPs in terms of the services that can be provided to merchants. The decision regarding whether to provide digital euro services should however be left to PSPs.

EDPIA understands the inclusion logic for mandating banks to freely provide basic services for citizens, in a manner comparable to the Payment Accounts Directive. To avoid distortion between digital euro and normal digital payments, we suggest the rules are firmly aligned (with references to ensure that this should remain the case into the future).

The proposed interoperability with European digital identity wallets could help the adoption of the digital euro, particularly noting the current fragmentation of payment means across Europe. At the same time, this should be done in a manner that ensures the process for issuing digital identity wallets does not distort competition regarding downstream digital euro services. This is particularly important considering the prominent role of the state in the digital identity ecosystem.

The ECB and Commission should remain mindful, in procuring technical service providers to build back-end or front-end aspects of the digital euro, of horizontal and/or vertical competition risks that may arise. This has been a notable discussion among industry players and regulators in the UK due to the involvement of Mastercard/Vocalink in the new payment's architecture[4].

Furthermore, the ECB should ensure that technical barriers to entry for a digital euro ecosystem remain low. Payment institutions and electronic money institutions should be able to directly access the digital euro infrastructure to initiate and receive payments on behalf of their customers. This is essential to fulfil the digital euro's objective of lowering barriers to entry into the payment system and consequently spurring more innovation and competition for end-users.

EDPIA suggests:

Introduce more explicit references to the Payments Account Directive with regards to the provision of basic user services.

Further clarify that non-bank payments service providers should have the opportunity to distribute the digital euro and develop additional technical solutions to the system.

4. The scheme should be governed in an open, independent, and balanced manner

In practice, we expect scheme rules will play an important role defining the final design and implementation of the digital euro.

The scheme should therefore be governed in a manner which is designed to represent the interests of different parts of the payments industry, merchants, and consumers in the decision-making process in a balanced fashion.

EDPIA suggests:

Establish an independent scheme governance body, also respecting the split between scheme and processor established by the IFR, which has proportionate representation from different segments of

[4] https://www.psr.org.uk/media/qo0bis0c/cp21_2-final-version.pdf

the EU retail payments market and civil society. It is also worth considering how the scheme's independence can be maintained from a financial perspective, assuming for example there is no scheme fee.

5. The rollout of the project should have a pragmatic roadmap

The digital euro should seek to leverage existing payments infrastructure to boost synergies and support market adoption.

The simultaneous release of online and offline payment solutions with instant settlement should be carefully evaluated. Meeting the diverse needs of users will help the uptake of the digital euro. At the same time, deploying multiple solutions via a "big bang approach" makes the rollout of the project more complex and costly. A staggered approach starting with the online solution would make rollout simpler, but at the cost of providing a narrower solution that does not meet certain needs met by the offline solution.

EDPIA understands the complexity of launching a digital euro from both a logistical and resources perspective, also taking into further consideration the particularities of each eurozone state. On top of staggered approach, we believe that the ECB should consider introducing a preparatory phase of the project, which could be limited to a specific number of eurozone countries. Such approach provides an opportunity to understand initial consumer reactions, as well as further assess the current opportunities and shortfalls of the project, for example regarding financial inclusion.

We are supportive that the legislative proposal recognizes the possibility that the digital euro could be distributed outside the euro area. We recommend that the EU pursues a reciprocal policy in terms of market access. This can contribute to the international role of the euro in the future, as well as making the most of the project at scale, while at the same time striking a balance that allows other jurisdictions to manage their system.

EDPIA suggests:

Introduce a roll-out timeline that is pragmatic and realistic so not to undermine trust in the project. Article 23 (1) of the proposal should be altered to allow for the possibility of a phased approach, for example starting with an online solution and thereafter introducing the offline option.

6. Scenarios where the central bank will access data must be very clear

Privacy is a clear concern for citizens. Striking the right balance with AML/CFT obligations is key to ensure that the digital euro remains a viable, trustworthy, and secure means of payment for all.

Qualified intermediaries have an important role to play regarding fraud prevention and dispute management. The market is evidently capable of meeting this need, and the development of such functions within the ECB is unnecessary. It is also important that arbitration is neutral to the parties involved in a transaction. Mechanisms to promote data sharing amongst PSPs, as introduced in the revised payment services directive, could also help to combat fraud. Of course, such initiatives should be sensitive to the social concerns of European users.

In this regard, EDPIA generally believes it is useful to draw upon the balance found elsewhere in the payment's framework. Intermediaries that provide services will have AML/KYC obligations that they need to meet for legitimate social purposes. We particularly welcome the proposal to allow qualified intermediaries to process personal data in the public interest, which also aligns with the recent proposal to review the payment services directive. PSPs should be the only entities with full visibility of consumer data and should operate in accordance with their own fraud risk assessment and management standards (as elsewhere).

The digital euro legislation notably includes several limitations upon central banks particularly to ensure that they do not directly identify end users (and instead rely upon qualified intermediaries). EDPIA supports this approach.

Indeed, recognising the sensitivity of the debate, EDPIA suggests that co-legislators provide more details on the specific public interest cases under which the European Central Bank is allowed to process personal data, how the repository of digital euro users will be managed, and what measures are in place to detect user fraud.

Offline payments naturally present additional financial crime risks. They cannot be secured with the same methods as online payments, and could allow the holdings, balances, and transaction amounts to remain unknown except to the user. Careful attention should be paid to the controls and safeguards introduced for offline payments to manage these risks, for example in terms of transaction limits.

EDPIA suggests:

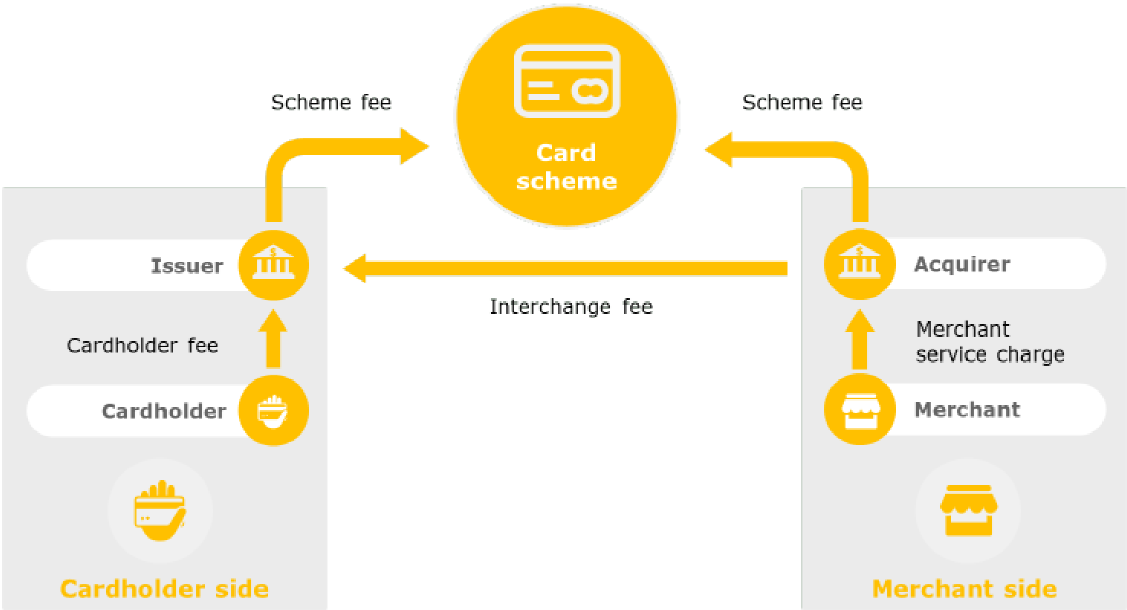
Develop a clear and common understanding of the scenarios under which the ECB has access to user data for combating financial crime, including in collaboration with the European Data Protection Board.

About EDPIA: The European Digital Payments Industry Alliance (EDPIA) represents the interests of independent Payment Services Providers headquartered in the European Union. Its purpose is to contribute to EU policy debates that define the business environment for electronic payments, and to strengthen the visibility and understanding of the European payments industry amongst policy makers and society as a whole.

Find out more about EDPIA and its membership here.

Annex I

Illustration of the fee flows within a four-party scheme[5]



Source: EY and Copenhagen Economics.

[5] https://ec.europa.eu/competition/publications/reports/kd0120161enn.pdf