The Money Charity Response – PSR Call for Views on Consumer Protection in Interbank Payments (April 2021)

The Money Charity is a Financial Capability charity whose vision is to empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.[1]

We welcome the opportunity to respond to the Payment Systems Regulator (PSR) Call for Views on Consumer Protection in Interbank Payments. We think this is a timely consultation and welcome the fact that the PSR is considering how to extend consumer protection to the growing flow of interbank payments.

In this response, we set out our Key Points, make some overall comments on the issue then answer selected questions from the Call for Views.

[1] See box on back page.

Key Points

1. We support extending consumer protection to interbank payments similarly to the way credit card payments are protected by S.75 of the Consumer Credit Act 1974. We think this is a vital and long-established consumer protection which has the social benefit of ensuring confidence in the payments system to which the protection applies.

2. We think protection should be mandated by rules applicable to all participants (PISPs as well as PSPs), supported by a governance structure that enables the system work as smoothly and efficiently as possible.

3. The advantage of S.75-type protection is that it introduces a powerful third party into the relationship between seller and buyer. Disputed payments are rare as a percentage of the total, while knowledge that a payment can be reversed is an important safeguard for consumers, ensuring that vendors cannot simply "walk away" from a dispute.

4. The rules should apply to both large and small payments, and to recurring as well as one-off payments.

5. Protection should not be restricted by use case (pre- or post-paid) but should apply to all interbank payments made by consumers to businesses for the supply of goods and services.

Overall Comments

As a Financial Capability and Wellbeing charity, we deliver workshops and other educational activities that touch on the different payment channels within the UK payments system. We describe the different types of payment method available, from cash to digital, and the different types of consumer credit, such as credit cards, store cards and Buy Now Pay Later. Credit cards are used as much as a secure means of payment as a means of accessing credit and S.75 sets a standard in consumer payment protection. Chargeback also exists for card payments (debit as well as credit) and some firms have introduced a high degree of automation into the process. For example, Monzo bank has a "dispute this payment" button which allows consumers to seek a refund with one click.

We agree with the PSR that interbank payments are likely to grow as a proportion of total payments, especially with the arrival of apps that interface directly between vendor and buyer accounts rather than working through card schemes such as Visa and Mastercard. In a few years' time, the standard method of payment for many transactions may be through direct account to account transfers.

Our view is that S.75-type protection (without the £100 threshold) should be extended to all interbank payments for the purchase of goods and services, be applicable to all participants (PISPs as well as PSPs) and be supported by an efficient governance structure. The advantage of standardisation is that consumers and firms need remember and implement only one set of rights and rules.

Payment protection oils the wheels of commerce. Disputed payments are extremely rare as a proportion of total payments, but the knowledge that there is a third-party to come to the consumer's aid increases consumer trust in the system and willingness to use the payment method in question. The boost to trade is likely to have positive effects on profit and productivity that are far larger than the cost of remedying disputed payments.

Answers to consultation questions

Question 1: Do you agree that there are insufficient consumer protections for interbank retail payments?

Yes, we agree. We think protection equivalent to S.75 of the Consumer Credit Act (without the £100 threshold) should apply to interbank retail payments.

Question 2: To what extent do you agree that currently the industry does not provide and consumers do not demand appropriate levels of protection?

We agree with this. The industry has not spontaneously provided sufficient protection for interbank retail payments. Because consumers are a scattered group it is hard for them to demand something in an organised way. Consumers tend to accept whatever terms and conditions apply to whatever payment channel (or service) they use. For example, Internet commerce has accustomed consumers to "compulsory consent" where ticking the box to accept Ts & Cs is a condition of access to a given service. In our educational work, we see examples of consumers switching payment methods (e.g. from credit card to PayPal) without realising they are losing S.75 protection as a result of choosing a different channel.

Consumers look to Parliament and regulators to provide the necessary protection where the market does not spontaneously provide it.

Question 3: Will there be any changes to consumer or industry behaviour that would reduce the size of harm without the need for intervention? Why (not)?

We do not see evidence of this. Indeed, we think the size of harm is likely to grow as more use is made of interbank payments.

Question 4: Do you foresee any difficulties with providing the same protection for on-us payments as those that use an interbank system?

No.

Questions 5-10: Use cases, liability and value

In our view, the relevant use cases are **consumer payments to businesses, both one-off and recurring, and low or high value**. For use cases involving straight financial transfers (e.g. bill splitting) there is no vendor as such and the most relevant consumer intervention, we think, is a reliable system of Confirmation of Payee.

The appropriate procedure for contested payments to businesses, we think, is that a consumer should first take up the contested payment with the vendor then, if no satisfaction can be achieved, take it up with the PSP or PISP. If the consumer can provide evidence that the good or service was not provided as promised or contracted then the PSP/PISP should reverse the payment (or that part of the payment that is in error), similarly to the way S.75 works.

In our view this should apply to both one-off and recurring payments regardless of size. As we said in our Opening Remarks, the great majority of payments proceed without dispute and it is the goal of both consumer and vendor to have a smooth and uncontested process.

The important dimension of the process from the point of view of consumer protection is that by introducing a powerful third party into the equation (the PSP or PISP) the vendor is incentivised not to walk away from the consumer and to remedy the problem as quickly and fairly as it can.

For recurring payments liability should extend to the beginning of the series of payments, not just the last payment. This is because if a payment is in error, it is likely that the error was made either at the beginning of the series or on a review date, e.g. an annual inflation adjustment or setting the new rate for the year. The redress procedure should go back to the origin of the problem.

Questions 11-13: should coverage be based on use cases (e.g. pre-paid purchases above a certain threshold)?

We are not attracted to this idea, for two reasons: (1) it sounds administratively difficult to implement, as it would require the interbank transfer system to be able to distinguish between pre-paid and post-paid purchases, and (2) it would not cover cases where the problem emerges after the good or service has been delivered and the payment made. For example, a manufactured product that turns out later to be defective, but the vendor does not honour the warranty. There can also be mistakes (or sleight of hand): for example, a rental car charged at the wrong band rate, where the error is only noticed after the car is returned and the payment has been made.

Questions 14-15: identity of payee and payer

From a consumer point of view, it seems to us to make more sense to base the protection on the type of transaction (consumer purchase from business) rather than on the identity of the payee and payer.

Questions 16-17: governance system

We agree that having a proper governance system for payment protection would be beneficial and that a standardised process would make the system more recommendable. In our experience, anything that increases complexity is a turn-off to consumers. It is much better to have a single set of rules and a single process covering as many transactions and parties as possible.

Questions 18-19: promoting consumer awareness

Having a clear set of rules applying to all purchases is the foundation for building consumer awareness. We think that payment protection applied to interbank payments will attract attention from consumer media and money advice sites and will achieve wide recognition over time. The key thing is having universal rules, capable of being simply explained. Once they are in place, we will do our bit to raise awareness in the education work we do.

Questions 20-21: whom will consumers approach to seek redress?

We agree with the assumption made in paragraph 5.12 of the Call for Views:

> "Our current theory is that [the consumer] would first ask the seller to fix the problem; if that did not work, they would then contact their PSP. We base this on our research which suggests that consumers may expect a seamless refund to be possible when they purchase goods and services and would generally claim retailer protection before claiming payment protection."

This is how the current S.75 process works and it follows the general principle of fixing a problem as close as possible to the point of origin. The PSP/PISP need only step in if the vendor refuses to make good whatever problem the consumer is experiencing.

In terms of whether the consumer would engage with the PSP or the PISP, this would depend on how the interface is presented. If the payment app is branded by the PSP, the consumer would approach the PSP. If it goes by the name of the PISP, this would be the natural place to go. It should be remembered that these distinctions are significant for the industry, but most consumers would not know whether they are dealing with a PSP or a PISP. They would simply be thinking in terms of the branded service they are using.

In terms of volume, we think that payment protection is relevant at any volume level, but particularly if interbank payments grow as a proportion of all payments, displacing the existing protections provided by the card systems.

Questions 23-25: rules or industry agreement?

We support the rules-based approach, with the regulator setting out clearly what the process will be. This should apply to all participants in the system (PISPs as well as PSPs). Having a rules-based approach has many advantages: it is universal, fair and simple to explain. In our view, this will be an important updating of consumer protection for the era of digital banking and payments

Questions 26-29: costs and benefits.

As said in our Opening Remarks, we think the benefits of payment protection are likely to substantially outweigh the costs, as payment protection builds confidence and oils the wheels of commerce. It is something that should be welcomed by everyone. We note that S.75 protection and chargeback have existed for a long time without being seriously contested on CB grounds. This is strong circumstantial evidence that payment protection for interbank payments will be economically efficient.

The Money Charity is the UK's Financial Capability charity providing education, information, advice and guidance to all.

We believe that everyone achieves Financial Wellbeing by managing money well. We empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.

We do this by developing and delivering products and services which provide education, information and advice on money matters for those in the workplace, in our communities and in education, as well as through influencing and supporting others to promote Financial Capability and Financial Wellbeing through consultancy, policy, research and media work.

We have a 'can-do' attitude, finding solutions to meet the needs of our clients, partners, funders and stakeholders.

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