



Federation of Small Businesses
The UK's Leading Business Organisation

Payments Consultation
Banking and Credit Team
Floor 1, Red
HM Treasury
1 Horse guards Road
London
SW1A 2HQ

1st July 2013

Dear Sir/Madam,

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with around 200,000 members, it is also the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 per cent of the GDP and employ 58 per cent of the private sector workforce.

We trust that you will find our comments helpful and that our comments will be taken into consideration.

Yours sincerely,

David Ramsden
Chairman of Finance, Tax and Economic affairs
Federation of small Businesses



Opening up UK payments

June 2013





FSB Response to Opening up UK payments consultation

Introduction

1.1 The Federation of Small Businesses [FSB] welcomes the review of the payments structure as it is a major component in pricing, and thus competition, for many smaller banks and new entrants. The current set-up of the payments system is overly complex with the Treasury, Bank of England, the Financial Conduct Authority, the Office of Fair Trading and the industry group, the Payments Council all having a role.

1.2 The FSB believes that a stand along regulator will act in the best possible interests of end-users, including small businesses. We also believe that new regulator will be able to drive innovation but protect current payment systems which are needed by those who are vulnerable or have minimal technology.

1.3 As such it is important that the new regulator engages with the FSB and the wider business community representatives when establishing advisory bodies. This will let consumers feed in their views and allow formal access to the regulator, and for the regulator to share pertinent information.

Regulator

2.1 The FSB considers the current situation of self-regulation and ownership detrimental to both end-users and the broader government objective of encouraging competition and innovation in the banking market. The proposed Payment Strategy Board [PSB], as a standalone economic regulator, is the preferred model for the FSB rather than building on the present patch-work approach.

2.2 In the long term, we see a regulator built in the same model as the utility regulators offering end-users greater protection and consultation. This was highlighted in particular by the decision to abolish the cheque with little consultation with end-users. This decision was the preferred option of the large incumbents, who in essence pay for and run the Payments Council. It was only after bodies such as the FSB and politicians voiced their objections that this decision was reversed.

2.3 In the short term, there will be issues in building a regulator and establishing clear communication channels with end-users, other public bodies and those using payment



infrastructure. This would be the case for any new body, and while speed is favoured, good policy in the long term will have greater outcomes. The FSB's guide to the general principles for economic regulators is listed at the end of this submission.

2.4 The Financial Conduct Authority [FCA] will have a role to play with the Payment Strategy Board in terms of funding through the levy and by appointment of senior member/s, but this should not mean policy is mixed between the conduct authority and the regulator of the payments infrastructure.

Remit of the Payment Strategy Board

3.1 The FSB agrees that the new economic regulator should take the lead in this area and therefore, we do not see a formal role for the Payments Council in the future. Each payment scheme company will have to develop its own plan, in consultation and authorisation of the new regulator, which can then be approved.

3.2 A complex area such as this with so many bodies involved in policy, implementation, operation and conduct will need careful consideration. For example, the FCA and OFT share some aspects of competition policy but have differing end-user goals. As such, overarching objectives will be needed for the new regulator, set out in legislation, which includes elements of policy strategy and a clear remit to (a) ensure investment is maintained in the payment systems, so the benefits of innovation from new technologies can be widely felt and (b) promote competition through equal terms of access for all users.

3.3 The new regulator and existing statutory bodies will have to publish how official interaction will be conducted and where stakeholders from the end-user and payment company communities can engage.

Competitive powers and ownership of the payment systems

4.1 The powers to be given to the new regulator seem sufficient under the existing legislation. There will be some cross over to completion investigations - namely the OFT's decision to review SME retail banking in July 2013. To clarify the nature of powers held by differing organisations, it would be helpful for the new regulator to produce a paper describing its powers in relation to statutory bodies. This was the case when the Financial Services Authority produced the 'Road to the FCA' document.

4.2 As is mentioned in the consultation document, the Government believes that competition is not now well served in the payment services industry and believes that the Payments Council is not the body which can deliver policy to counter this. Therefore, the new regulator should immediately conduct a market test which reviews the current state of



the market, the barriers faced by smaller banks and users and the innovation [or lack of it] in the payments industry for end-users.

4.3 The end-user community, including the FSB feels that both ownership and usage by a small number of groups [mainly banks] produces policy and a lack of innovation which suit these incumbent groups instead of the end-user community. The smaller banks are left at a disadvantage due to the restrictive nature of 'plugging into' the system which is costly.

4.4 The FSB notes that other nations have payment systems which are split from users and banks, and owned by either the central bank or another state department. The German payment system is owned and run through the German central bank for example as it sees the payment system as critically important to a well running economy. The American national payment system has a co-ownership model between a non-profit organisation [run by the US Federal Reserve System] and a private organisation.

4.5 The FSB recommends that the new regulator conducts an economic and practical review of the benefits of a National Grid style operation, where the payment system is independent of users and owners. This review should inform the new regulator and the Treasury, but also provide the evidence for a formal referral to the Competition Commission should that be viewed necessary.

For further information

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General principles of good economic regulation

Accountability

Independent regulation needs to take place within a framework of duties and policies set by a Parliament. Roles and responsibilities between Government and economic regulators should be allocated in such a way as to ensure that regulatory decisions are taken by the body that has the legitimacy, expertise and capability to arbitrate between the required trade-offs

Decision-making powers of regulators should be, within the constraints imposed by the need to preserve commercial confidentiality, exercised transparently and subject to appropriate scrutiny and challenge by all stakeholders.

Focus

The role of economic regulators should be concentrated on protecting the interests of end-users of services.

Economic regulators should have clearly defined, articulated and prioritised statutory responsibilities. These should be focussed on outcomes rather than specified inputs or tools by ensuring the operation of well-functioning and contestable markets where appropriate or by designing a system of incentives and penalties that replicate as far as possible the outcomes of competitive markets.

Economic regulators should have adequate discretion to choose the tools that best achieve these outcomes.

Predictability

The framework for economic regulation should provide a stable and objective environment enabling all those affected to anticipate the context for future decisions and to make long term investment decisions with confidence.

The framework of economic regulation should not unreasonably unravel past decisions, and should allow efficient and necessary investments to receive a reasonable return, subject to the normal risks inherent in markets.

Coherence

Regulatory frameworks should form a logical part of the Government's broader policy context, consistent with established priorities regulatory frameworks should enable cross-sector delivery of policy goals where appropriate. Regulatory frameworks should enable cross-sector delivery of policy goals where appropriate

Adaptability and Efficiency



The framework of economic regulation needs capacity to evolve to respond to changing circumstances and continue to be relevant and effective over time. Policy interventions must be proportionate and cost-effective while decision making should be timely, and robust