Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

Forum@psr.org.uk

14 September 2016

Dear Sir/Madam,

Being responsive to user needs: A draft strategy for consultation

This is the response of the Financial Services Consumer Panel to the Payment Systems Forum draft strategy.

The Panel does not have specific evidence to respond in detail to the questions. However, we do have some general concerns about the new architecture for payments; the centralised model; leadership; security of consumers' data; and the potential for increased conduct risk. We also have some more general comments on the proposals, which we outline below.

A new architecture for Payments

The draft strategy proposes a new architecture for payments that promotes innovation. It removes the requirement for firms to collaborate when change is required and instead pushes innovation into a more competitive arena. It should reduce barriers to entry and open up the market to more Payment System Providers (PSPs).

In principle the Panel agrees with this approach, on the basis that it should remove the need for slow, time-consuming collaboration and enable better, cheaper, more innovative payments in future for consumers.

However, it is unclear from the strategy how the end-user benefits described, for instance, Request to Pay (RTP), will be delivered: we believe regulatory mandate will be needed to ensure RTP is delivered by the industry, otherwise the strategy will simply provide the functionality to enable it to be delivered (if a firm chooses to).

The benefits of the Simplified Payments Platform (SPP) will only be delivered if firms innovate. There is also the possibility that firms may not innovate in ways that favour the individual consumer/SME (as opposed to the merchant). It is unclear who will manage this risk. We believe that the Payment Strategy Forum should monitor new risks as they arise, within the system they are creating.

Centralised or distributed model

Payment systems have typically been dominated by the large, incumbent banks. One key reason for this is that schemes and any innovation need capitalising and those with larger market share are required to fund changes. This model has been repeated by the CMA in setting up the Big 9 banks to deliver Open APIs for the whole industry. It creates incumbency advantage and barriers to competition.

The distributed model of delivering the Simplified Payments Platform (SPP) provides an alternative funding model which has the potential to create a more level playing field. Taking a 'standards-based' approach avoids the need for heavy capitalisation by incumbents and should increase competition in the infrastructure market.

If the interbank Payment System Operators (PSOs) are consolidated and given the remit to design the SPP, it may not be in their interests to promote a distributed model as this would reduce the size and potentially the influence of their organisation. Any conflict of interest of this nature must be dealt with in the final strategy.

The Panel believes that further debate about the distributed model is required.

Leadership

The draft strategy provides no clarity on who will lead the proposals. A number of the proposals will take time to implement, and the cost will presumably need to be borne by industry. Therefore, we do not believe many of the initiatives are realistically achievable without regulatory mandate, given other pressures on the industry. There are a number of examples of where the implementation details of certain initiatives have been left to industry groups and trade associations. This approach has often led to delays in the past, and only partial consideration of the options.

We continue to believe that consumer representation will be necessary as the PSF or its successor takes forward the strategy and monitors its implementation.

Further consideration should be given as to how APIs are governed end to end in payments, given the work going on to develop Open Banking APIs. The CMA's Implementation Entity should have a clear remit to consider how its end-user APIs interact with the APIs necessary for creating the SPP. This would ensure the underpinning payments system is as efficient as possible and reduces costs for the industry (and thus consumers) in the longer term. This requires the regulators and government to take a joined up approach in the regulation of payments.

Greater control for consumers

We agree that consumers and businesses often want greater control and without it detriment occurs. Continuous payment authorities (CPAs) are one area where, currently, consumers have no control over their payments. CPAs have become a standard way to pay for products and services such as payday loans, gym memberships, insurance auto-renewals and online subscriptions. They do not offer the same guarantee as direct debits and give the firm taking the payment control over when and how much it takes from the customer's account.

Giving and revoking consent for payments will be complicated further by the introduction of Account Information Service Providers (AISPs), Payment Initiation Service Providers (PISPs) and Third Party Payments (TPPs). We therefore think that the regulator should mandate that consumers have the option to confirm, reject or postpone any automated payment from their account (whether card or scheme based) the moment it is to be taken, without facing discrimination by providers or merchants. This requirement would ensure that innovations in payments and payment types ensured transparency and control. This could also help to reduce fraud.

SPP will enable this to be enacted much more easily in future for interbank payments. Card schemes would need to be dealt with separately but should be required to follow the same rule.

RTP provides a model for helping people to achieve control. However, the strategy suggests that RTP will not deal with the detriments arising from CPAs and it is unclear what the incentive would be for merchants (like payday lenders) to move from CPAs to RTP.

The RTP solution would still need firms and corporates to deploy RTP in a way which is beneficial to consumers. For instance, how long will a firm allow a consumer to postpone payment?

There must be provision to enable people to 'opt out' of the RTP so that they are still able to enjoy the equivalent automated payments, in the same way that direct debits operate now. They should be able to 'opt-out' on an individual transaction basis, rather than have to have all RTPs or all direct debits. The ability for consumers to be flexible depending on what the transactions are for, is the only way to really guarantee greater control.

Payment types available to consumers and businesses are expanding dramatically and detriment is likely to occur. Knowing how to pay must be kept simple. Ensuring control remains with the payer will help reduce the potential conflicts that arise between merchants and consumers and ensure whatever payment a person chooses to use, they have control at the moment of payment.

All automated payments in the future must provide for better transparency and control to the payer.

Assurance data and enhanced data

We believe that assurance data will be particularly helpful in avoiding misdirected payments which can be a source of detriment to consumers.

Enhanced data should enable the swifter reconciliation of invoices for businesses and provide new opportunities to support SMEs in ways that free up cash flow and aid liquidity. However, this may challenge existing business models which provide credit to SMEs and so therefore the incentive to innovate may be weak.

The PSF is creating new data functionality which along with Open Banking makes available rich data about how people spend money. The PSF should be transparent about any ways in which this new functionality could create social policy issues, were that data to be used by authorities or others that could impose restrictions on the way people spend. It is important that any such issues can be aired and debated in a wider public forum as appropriate.

Security of consumers' data

Enhanced data needs to be delivered in a consumer friendly way. Consumers need to understand the implications of open banking and data sharing and should be confident that innovation will not increase risks of fraud, money laundering, or data protection breaches.

Cybercrime is likely to increase. We support proposals which would help the repatriation of funds to victims of crime. Raising customer awareness will not be a panacea to overcoming financial crime. Consumers should know how to protect themselves and seek help if they do fall victim to scams or fraud. However banks should also do more to make the process for repatriation of funds more straightforward and systematic. And the authorities should take a more strategic approach to dealing with fraudsters – big or small - so that enforcement is effective.

We are concerned at the proposals to share intelligence relating to *suspected* fraudsters. Labelling people wrongly can cause significant problems for individuals, for example through forced account closure. Often, the suspicious activity which leads to forced account closures is the sending or receiving of money from abroad; there are many legitimate reasons why consumers may do this. The reputational damage of being wrongly suspected of criminal activity is very significant and the withdrawal of banking and other financial services is very damaging.

While we support the plans to increase security, we have concerns about data privacy and the possible curtailment of personal freedoms which the availability of this data could create. Again the PSF should be transparent about the new capabilities it is creating and any ways in which it could be used by the authorities and/or others in power to create new social policy issues and these should be debated in a wider public forum, beyond payments.

Potential for increased conduct risk

Innovative payment products must be monitored. The Panel believes that all financial services firms and Payment Service Providers should be subject to a statutory duty of care, obliging them to avoid conflicts of interest and act with the best interests of the customer in mind. This is particularly important in payments where conflicts may arise between groups of consumers: for instance, merchants and individual consumers. The PSR needs to take a role in arbitrating and ensuring the needs of different groups can be met.

We believe a duty of care is likely to be more effective than the financial capability principles. We think the principles are good in theory but it may not be realistic to expect many firms to adhere to them. We also believe that a number of them are already caught up in the purview of the FCA under Treating Customers Fairly and Conduct of Business Supervision. We admit that the FCA has struggled to implement these successfully and thus we believe a more robust, legislative, approach is needed.

Yours sincerely

Sue Lewis
Chair, Financial Services Consumer Panel