Which?, 2 Marylebone Road, London, NW1 4DF
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Response by: Which?

Payments Strategy Forum
Forum Secretariat
25 The North Colonnade
Canary Wharf
London E14 5HS

Payments Strategy Forum Consultation

Which? welcomes the opportunity to respond to the Payments Strategy Forum Consultation Paper: Blueprint for the Future of UK Payments[1].

We strongly agree with the consultation paper on the importance of simpler access, greater innovation, increased adaptability, improved competition, and better security in payments. We also agree that the UK inter-bank payment systems are no longer fit for purpose.

Which? nevertheless has significant reservations about the Payment Strategy Forum's recommendations and approach. In particular, it has become clear following Which?'s 2016 super-complaint about authorised push payment (APP) scams[2], that there are wider and larger detriments in payments, much of which the Forum has not apparently considered.

First, it is disappointing and puzzling that the scope of the Forum does not include all payments users, in particular, users of retail payments, chiefly cash and cards. As a result, the Forum's identified detriments and proposed solutions may be substantially incomplete, especially considering the potential large detriments in cash and card payments.

Second, we are concerned that the Forum has not addressed the central question of the ownership and control of the inter-bank payment system operators (PSOs). This has been an outstanding question since the Government commissioned Cruickshank review of competition in banking in 2000. The Cruickshank review identified ownership and governance as the chief reason why UK payment systems were not fit for purpose then.

Third, we are concerned about conflicts of interests between Forum members and consumers.

Last, we agree that doing nothing is not a viable option. The creation of the New Payment System Operator (NPSO) – combining Bacs, Cheque & Credit Clearing (C&CC), and Faster Payment (FPS) – is the opportunity to invigorate competition and innovation. However, without addressing PSO ownership, the NPSO risks entrenching the old not-fit-for-purpose

[1] Blueprint for the Future of UK Payments: A Consultation Paper, Payments Strategy Forum, July 2017.
[2] Which? super-complaint: Consumer safeguards in the market for push payments, September 2016.

www.which.co.uk
Which?
2 Marylebone Road, London, NW1 4DF
t 020 7770 7000 f 0207 7770 7600
www.which.co.uk

model. The Payments Strategy Forum and/or Payment Systems Regulator (PSR) must therefore address the questions of detriments in the cash and cards payment markets, and the ownership and governance of the PSOs as a matter of priority.

We also have some specific reservations about the objectives and design of the Forum's proposed Request to Pay (RTP) and Confirmation of Payee (CoP) solutions.

We comment further on each of these below.

The Forum has omitted a large part of the payments market from its scope

The consultation says that the Forum is the first time all stakeholders who have an interest in payments in the UK have worked together to plan for a future that meets the needs of all users.

This is surprising given that the Forum has focused exclusively on inter-bank payments (namely, the Bacs, C&CC, and FPS payment systems), to the exclusion of cash and card payments (i.e. LINK, Mastercard, and Visa). This means that the Forum has effectively excluded all retail payments, plus a large share of online, recurring, and person-to-person payments. Together, cash and cards represents 77% of total UK payments volumes[3]. Cards is also the fastest growing payment type.

The consultation paper (and draft Strategy Forum consultation) nevertheless state that cash and card payments are out of scope, without further explanation, albeit recognising the growing dominance of card payments, especially debit and contactless payments.

This position is greatly puzzling and we therefore strongly disagree that the Forum recommendations represent a "future plan that meets the needs of all payment users". Moreover, Which? is concerned that there are potential major consumer detriments in cash and card payments that the Forum has therefore not considered.

First, cash remains the largest overall payment method in the UK, albeit forecast to fall steadily in future with growth of electronic payments. UK consumers have access to one of the most extensive free ATM networks in the world. Recent reports highlight though that free ATMs in the UK are under threat[4]. This is a particular concern given the increasing closure of bank branches, especially in rural areas.

Second, a further concern for cash users is Visa's recently announced "war on cash", in which Visa is encouraging retailers to stop accepting cash at all. This creates a large potential consumer detriment of loss of choice, especially given Visa's share of UK debit cards, combined with the ongoing high costs for retailers of accepting card payments.

Third, card payments are now more than half of all retail purchases. However, according to the British Retail Consortium (BRC), the costs of accepting card payments still remain far higher than the costs of accepting cash, despite the recently introduced EU Interchange Fee

[3] See Payments UK UK Payments Market Summary 2017.

[4] For example: "MPs warn banks over threat to free cash machines: Charges will hit poorest customers the worst", *The Times*, 23 January 2017.

Regulation (IFR).[5] The costs of accepting new non-card payment methods, such as PayPal, are even higher still, by over 10 times the cost of cash. This is a large detriment, considering that such costs may inevitably be paid for by consumers.

Fifth, a further example of concerns with card payments is the way that Mastercard and Visa jointly control innovation and standards in card payments, namely through the EMVCo joint venture[6]. Serious concerns have been raised by US legislators about the way that EMVCo operates[7].

The Payments Strategy Forum should have considered all such potential detriments in cash and cards payments, as well as options to address these, such as:

- protecting access to free cash machines;
- protecting acceptance of cash at retail locations;
- extending and reducing the cost of access to cash, for example, by making cash back at retail locations more widely available;
- reviewing ongoing high costs of card payments; and
- reviewing the standards setting process of the card payment schemes.

The further concern with omitting cash and cards from scope is that it precludes the Forum's underlying objective that "the development and innovation of payment systems can require payment systems to work together"[8]. This objective cannot be achieved if the three almost largest UK payment systems are not within scope.

The Payments Strategy Forum and/or PSR should now address these as a priority.

The Forum has not addressed the ownership and control of the payment system operators

The Consultation Paper states that the UK inter-bank payment systems are "no longer fit for purpose in the 21st century, and that their age and complexity make it increasingly difficult for the industry to innovate to meet the changing needs of a diverse group of users" and that "moving to a new modern payments provides an opportunity to address historical problems of slow innovation, concentration of ownership and control of payment systems".

We strongly agrees that the inter-bank payment systems are no longer fit for purpose. APP scams are a prime example of this failing.

However, moving the inter-bank schemes to a new payments architecture will not address the problem of concentration of ownership and control of the inter-bank PSOs. This problem must be addressed directly. Indeed, the PSR's response to Which?'s Super Complaint recognises the central role of the PSOs in preventing and responding to APPs[9].

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[5] See BRC Payments Survey 2016.

[6] EMVCo is a joint venture between the American Express, Discover, JCB, Mastercard, UnionPay, and Visa payment schemes.

[7] See US Democrat Senator Dick Durbin's letters to EMVCo at www.durbin.senate.gov.

[8] Payments Strategy Forum Terms of Reference FINAL, December 2015.

[9] Preventing and responding to authorised push payment scams: The role of payment system operators, Call for inputs, Payment Systems Regulator, May 2017.

Moreover, the ownership and control of the PSOs has been an outstanding question since the Cruickshank review of competition in banking in 2000. It found that the "poor and outdated" bank-owned governance model meant that the PSOs are run in the interest of the same few large banks that control them, rather than the public interest. Cruickshank recommended that the large banks should be prohibited from controlling the main payment schemes.[10]

The question of the ownership and control of the PSOs subsequently became one of the Government's chief stated priorities in setting up the PSR in 2013[11]. The 2013 Parliamentary Commission on Banking Standards also called on the Government to make ownership of the payment systems a top priority, which the Government committed to[12]. The question came up again at a recent Treasury Select Committee hearing with the PSR[13].

Regrettably, such a study of the ownership and control of the PSOs has not happened. The PSR has only considered the narrow question of the ownership of payments infrastructure providers[14]. This question must therefore now be a priority, especially given the opportunity that reform of the PSO governance model might have to address APP scams, among the wider problems of insufficient competition, innovation, or investment.

There are large apparent conflicts of interest between Forum members and consumers

We are concerned that the Strategy Forum has itself suffered from some of the same issues of governance and control, and associated conflicts of interest, as the underlying payment systems that the Forum is focused on.

A particular example of this is the Forum's assessment of account number portability (ANP), which concluded that "the arguments against implementing ANP are significant, whereas those for implementing ANP offered only intangible benefits" and therefore recommended that "ANP is not proposed for implementation as part of the Forum strategy"[15]. Which? is concerned though that this conclusion reflects considerable conflicts of interest between the large bank Forum members that dominated the ANP Working Group and end consumers.

ANP has been a longstanding policy question. For example, the 2010 Future of Banking Commission[16], in Which? participated, recommended that regulators consider forcing banks to introduce ANP. The later 2013 Parliamentary Commission on Banking Standards recommended that the Government should establish an independent panel to assess the technical feasibility, costs and benefits of ANP, and that it should exclude any current industry representatives from its membership, noting how strongly banks have objected to ANP in the past.[17]

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[10] Competition in UK Banking: A Report to the Chancellor of the Exchequer, Don Cruickshank, 2000.

[11] Opening up UK payments, HM Treasury, 2013.

[12] See Changing banking for good: Report of the Parliamentary Commission on Banking Standards, 2013, and The Government's response to the Parliamentary Commission on Banking Standards, HM Treasury, 2013.

[13] Work of the Payment Systems Regulator, HC 944, House of Commons Treasury Committee, 18 January 2017.

[14] Market review into the ownership and competitiveness of infrastructure provision: Final Report, Payment Systems Regulator, July 2016.

[15] Page 76, Draft Payments Strategy Forum.

[16] The Future of Banking Commission, 2010.

[17] Changing banking for good: Report of the Parliamentary Commission on Banking Standards, 2013.

This example raises concerns about the objectivity and independence of the Forum's recommendations. The Forum should have been set up in way to avoid such conflicts of interest, especially as this was the chief criticism of the former collaborative body responsible for setting UK payments strategy, the Payments Council.

In summary, Which? has wide ranging concerns about the Payment Strategy Forum's recommendations and operation.

Annex: Consultation Paper question responses

Which? has only responded to relevant questions.

Question 1.1: Do you agree with our recommendation to move towards a "push" payment mechanism for all payment types?

We do not understand the distinction that the Consultation Paper makes between "push" and "pull" payments, which appears to be at odds with standard industry definitions, for example, in the PSR's response to Which?'s push payments super-complaint:

> "Push payments are payments where a customer instructs their bank to transfer money from their account to someone else's account. In contrast to push payments, pull payments are payments where the person who is due to receive the money instructs their bank to collect money from the payer's bank."[18]

Hence, the Strategy Forum's recommendation appears to be a semantic distinction, as the Forum does not appear to be proposing to abolish existing pull payments such as Direct Debits. Moreover, arguably all payments are push payments, in that it is always the payer who should decide to make (i.e. to "push") a payment. Accordingly, "pull" payments are simply pre-authorised push payments, to be made subject to a schedule or on other terms agreed between the payer and payee.

Existing pull payments, such as Direct Debits and Continuous Payment Authorities offer large convenience benefits to payers and payees, provided that they are subject to appropriate safeguards. We would be greatly concerned if a move towards a "push-only" payment mechanism meant that such user benefits were lost.

Which? uses both Continuous Payment Authority (debit and credit cards) plus Direct Debits for payment of Which?'s subscription services.

Question 1.3: As a potential vendor, participant or user of the NPA, are there any other design considerations that should be included in the NPA, especially with regards to considering the needs of end-users?

Yes. See our response to the Consultation Paper above. We are particularly concerned about the exclusion of cash and card payments from the NPA, and the proposed ownership and governance model of the NPSO, as this means that the NPA does not fully take into account the needs of all end-users.

Question 2.1: As a payee,

a. *Does your organisation serve customers who experience challenges paying regular bills?*
b. *Does your organisation experience unpaid direct debits?*

[18] Para. 2.2, Which? push payments super-complaint: PSR response, December 2016.

We note that all payees are likely to serve customers that may experience challenges paying bills or experience unpaid direct debits to some extent.

Question 2.2: Request to Pay provides visibility to payees on the intentions of a payer. Would the increased visibility benefit your business? If so, how?

We note that it is unclear what problem or user detriment the Request to Pay (RTP) solution is trying to solve that can't be solved by existing available solutions or that should require payment system wide collaboration to solve. In particular, it is unclear how RTP differs from an existing bill or invoice, or why such payee-payer communication can't be achieved through existing communication channels, to allow payment intentions to be communicated. Payer bills and invoices are typically currently sent through a range of existing channels, e.g. by post, email, SMS, website, or mobile app, according to payees' business model and to payers' preferences. Hence, to be most useful, RTP would need to be integrated across a range of existing communication channels, although it is unclear how this might feasibly happen.

Question 2.3: Request to Pay will result in increased communication between the payee and the payer. As a payee:

a. Would the increased communication present a challenge? If so, in what way?
b. What benefits could you envisage from this increased communication?
c. Do you see any additional potential benefits resulting from Request to Pay other than those described? If so, which ones?

It is unclear why if a payee wanted increased visibility of payer payment intentions, or increased communication, why they couldn't achieve this through existing solutions. We agree that increased communication may have benefits to payees, for example, in terms of better payment or credit management. However, it would also entail additional costs for payees, in terms of greater resources needed to manage such extra payer-payee communication activity.

We note that "use case" 1 and 2 largely describe the normal content of a customer bill or invoice. Payers can usually already choose their preferred billing and communication methods, e.g. by post, paperless, email, SMS, phone, etc. Most of the proposed requirements can thereby already be met through choice of existing communication channels.

We note for "use case" 3, there already exist many two-way messaging systems, e.g. telephone, post, email, SMS, online secure messaging, mobile app, Whatsapp, Facebook Messager, Chatbot, among others. It is therefore unclear why a dedicated RTP messaging system would be needed or how it would might offer additional features over and above existing highly developed communication systems.

Question 2.5: We envisage payees stipulating a payment period during which the payer will be required to make the payment. As a payee, how do you think this payment period might be applied within your organisation?

We note that most payees invariably already stipulate a payment period according to customer contract terms. It is unclear why RTP would change this.

Question 2.6: Request to Pay will offer payers flexibility over payment time as well as amount and method. As a payee:

a. *Does your business model support offering payment plans and the ability for payers to spread their payments? If so, please provide more details as to how these plans are offered, their conditions and to which customers.*
b. *Do you have a predominant payment method used by your payers? If so, what percentage of customers use it?*
c. *Do you offer your payers a choice of payment methods? If yes, what determines how much choice you offer? If not, what are the barriers preventing you from doing this?*
d. *Are there any incentives to use one payment method over another? If so, what is the rationale?*

We note that payment flexibility and associated extension of credit should be an entirely commercial/contractual matter, and likewise, the choice of payment methods offered by payees and incentives to use one payment method over another. It is not clear how RTP changes this.

Which? uses both Continuous Payment Authority (debit and credit cards) plus Direct Debits for payment collection for its subscription services.

Question 2.7: A minority of payers may not be able to pay within the payment period. Through Request to Pay they will be able to request an extension to the payment period. As a payee:

a. *Do you currently offer your payers the capability to extend a payment period, request a payment holiday or make late payments?*
b. *What are the conditions and eligibility criteria under which this is offered?*
c. *If you currently don't, what are the barriers preventing you from offering this capability?*

This should be an entirely commercial/contractual matter.

Question 2.8: Request to Pay will offer payers the option to decline a request. The purpose of this option is to provide an immediate alert in case the request was received as an error or will be paid by other means. As a payee:

a. *Would you find this information useful?*
b. *Do you have any concerns about providing this capability?*

Payers already have existing channels to dispute or query a payment, or to request extension for payment, especially in the case of credit providers, utility companies, communications providers, council tax billing, or other recurring payments. It is not clear what RTP would offer in addition to these.

Question 2.9: Does the Request to Pay service as described address:

a. The detriments identified in our Strategy?
b. The challenges experienced by your customers? Does it introduce any new challenges? Does it introduce any new challenges?

No, we do not think that RTP addresses detriments arising from a lack of sufficient control, flexibility and transparency in the current payment mechanisms to meet the evolving needs of some end-users.

Question 2.12: We have highlighted several risks and considerations relevant to the delivery of Request to Pay. As an end-user of Request to Pay:
a. Are there any risks that we have not addressed or highlighted that would like to add?
b. Are there additional unintended consequences that we should consider?

The biggest likely risk of RTP is potential lack of interest from payees, especially given the additional costs and unclear benefits over existing billing and communication channels, plus the risk that payers also prefer existing channels. RTP could also create additional fraud or scam risk.

Question 2.14: As a PSP:
Do you currently offer real-time balance information to your clients?
What information do you offer them? If not, what are the constraints?

Not applicable, but we note that real-time PSP balance information is already available via a wide range of existing channels, e.g. by mobile banking, online banking, ATMs, telephone banking, and SMS alerts. It appears that only few PSPs do not currently offer some form of real-time balance information to their customers.

Question 2.15: We have presented two CoP response approaches (Approach 1 and Approach 2).
a. As a payer, what would be your preferred approach? Why?
b. As a PSP, what would be your preferred approach? Why?
c. As a regulator,
I. What are applicable considerations that must be made for each approach?
II. What safeguards must be put in place for each approach?

We have concerns with both CoP approaches.

Approach 1. Our chief concern with this approach is the underlying matching problem and associated high likely error rate, namely, that details don't match, resulting in false negatives (that the name known to the payer is not same as or similar to the intended account name); and false positives (that the details match but are still sent to wrong account, e.g. because they are sent to someone with the same or similar name as the intended payee, or because a malicious account has been set up with the same or a similar name). Hence, while Approach 1 could reduce the risk of accidental input errors, it will not necessarily address maliciously misdirected payments.

Approach 2. This approach raises considerable data protection and privacy concerns, and associated phishing and fraud/scam risk. It is also likely to result in similar false negatives/positives as Approach 1. Moreover, it is not clear how PSPs could put safeguards in place to protect such user data and user privacy. Safeguards must be designed into the CoP service, not left to PSPs to find solutions.

We note that basic CoP already exists to verify correct SCAN data, namely, the UK bank account numbers and sort code systems provides a number of internal validation methods to verify that a bank account number is correctly composed. PSP and branch/office details are typically reported when a payer enters a sort code for a new payee. Sort code checkers are also widely available, e.g. on the Bacs, Faster Payments, and Payments UK's websites. Variants of CoP also exist in a range of existing payment methods, e.g. card payments, PayPal, and Paym.

We nonetheless strongly agree on the need for an effective CoP solution, as called for in Which?'s super-complaint one year ago. It is disappointing therefore that neither of the Forum's proposed CoP approaches are likely to be effective or workable.

Which's recommends instead that the Forum should consider a wider range of alternative CoP methods, such as multi-factor, tokenisation, or other cryptographic authentication method to implement CoP. For example, a payee could only receive a given payment if they also hold additional authentication information from the payer via a separate communication channel. This would in effect make the payment a "push-pull" payment, as both payer and payee authentication would be needed to complete the transaction.

Such multi-factor authentication is also how card payments provide a corresponding "confirmation of *payer*" solution for pull payments, whereby the payee initiates the payment, but the payee needs to provide an additional authentication factor to verify their identify, such as a PIN or biometric identifier. Moreover, such security measures will soon become a requirement of the revised Payment Services Directive ("PSD2"). A similar approach could be developed for CoP push payments.

Question 2.16: As a PSP:

a. *Would you be able to offer CoP as described to your customers?*
b. *What is the extent of change that you would need to carry out internally to offer CoP?*

No comment, except that this must surely depend on individual PSP business cases.

Question 2.17: The successful delivery of CoP is largely dependent on universal acceptance by all PSPs to provide payee information. As a PSP:

a. *Would you participate in a CoP service?*
b. *Are there any constraints that would hinder you providing this service?*

Again, this must depend on the business case and/or any mandatory regulatory requirement to offer CoP.

About Which?

Which? is the largest consumer organisation in the UK with more than 1.5 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.