



*European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken*



**The EACB response
to the "Commission services working document:
Consultation on bank accounts"**

12 June 2012

The EACB is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 63.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 160 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 50 million members and 750.000 employees and have a total average market share of about 20%.

For further details, please visit <http://www.eurocoopbanks.coop/>

The voice of 4.200 local and retail banks, 50 million members, 160 million customers

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Key messages

TRANSPARENCY AND COMPARABILITY OF BANK FEES

- MANY INITIATIVES EXIST AT NATIONAL LEVEL, AND SUFFICIENT TIME SHOULD BE ALLOWED FOR THE EFFECTS OF THOSE TO 'KICK-IN'.
- THE EXISTING GOOD PRACTICES WERE IDENTIFIED IN THE PRINCIPLES ON TRANSPARENCY AND COMPARABILITY OF BANK FEES AS PROPOSED BY EBIC IN SEPTEMBER 2011 AND THE EACB MEMBERS STAND READY TO IMPLEMENT THEM
- THE EACB COULD SUPPORT AN EFFORT, WHERE NEEDED, TO USE AT NATIONAL LEVEL COMMON TERMINOLOGY FOR THE MOST COMMON SERVICES RELATED TO A PERSONAL CURRENT ACCOUNT FEES. HOWEVER, THIS SHOULD NOT IN ANY WAY SUGGEST PRODUCT STANDARDISATION
- CREATION OF COMPARISON WEBSITES SHOULD NOT BE A RESPONSIBILITY OF BANKS, NOR SHOULD IT LEAD TO IMPOSING ADDITIONAL COSTS OR REPORTING OBLIGATIONS ON BANKS. SIMULATIONS AND REPRESENTATIVE EXAMPLES COULD BE CONSIDERED IF THEY ARE PROVIDED ON A VOLUNTARY BASIS. HOWEVER, THEIR EFFECTIVENESS IS LIMITED DUE TO THE DIFFICULTIES IN CREATING RELIABLE USERS' PROFILES
- THE EACB IS NOT OPPOSED TO SURVEY TOOLS, AS LONG AS THEY ARE USED FOR PROVIDING GENERAL INFORMATION TO CONSUMERS, RATHER THAN TAKEN AS A BASIS FOR POLICY ACTIONS
- HAVING COMPARABLE EX-POST INFORMATION WOULD NOT IN OUR VIEW INFLUENCE CUSTOMER MOBILITY. THE LATTER, BE IT AT NATIONAL AND EU LEVEL, DEPENDS ON NUMEROUS FACTORS, INCLUDING CONSUMER SATISFACTION, CONVENIENCE, LANGUAGE BARRIERS, LOW DEMAND TO BUY FINANCIAL PRODUCTS IN ANOTHER MEMBER STATE
- NO FURTHER MEASURES ON BANK FEES, OTHER THAN FINANCIAL EDUCATION ARE RECOMMENDED. IF ANY, INITIATIVES SHOULD BE TAKEN AT NATIONAL LEVEL. IN ANY CASE, ANY LEGISLATIVE INSTRUMENT PROPOSED SHOULD ALLOW SUFFICIENT FLEXIBILITY FOR THE MEMBER STATES. ANY SOLUTIONS CONCERNING BANK FEES SHOULD NOT BE FOCUSED ON COMPARISON BASED PURELY ON PRICE AND SHOULD TAKE INTO ACCOUNT OTHER IMPORTANT QUALITIES AND CONSUMER PREFERENCES

BANK ACCOUNT SWITCHING

- EBIC PRINCIPLES PROVIDING FOR A SWITCHING FACILITY HAVE BEEN IMPLEMENTED IN ALL 27 MEMBER STATES, AND THE SCOPE OF NATIONAL MEASURES IS GENERALLY IN LINE. INFORMATION ON SWITCHING IS PRESENTED IN A FRIENDLY MANNER
- OBSTACLES ARE IN GENERAL REMOVED, ALTHOUGH MORE TIME MAY BE NEEDED FOR THIS SERVICE TO REACH ITS OPTIMAL EFFICIENCY. THE ISSUE OF EFFICIENCY WILL NOT BE SOLVED BY BINDING LEGISLATION AND THUS THE COMMON PRINCIPLES SHOULD REMAIN VOLUNTARY
- THE COMMON PRINCIPLES SHOULD NOT BE EXTENDED TO COVER CROSS-BORDER SWITCHING
- THE QUESTION ABOUT OBSTACLES FOR PROVIDERS ENTERING NEW MARKETS DOES NOT BELONG TO THIS CONSULTATION, AS THE LATTER ARE NOT RELATED TO THE ISSUE OF BANK ACCOUNT SWITCHING
- ATTRACTIVE, QUALITY SERVICES ARE THE BEST INCENTIVE TO SWITCH
- NO FURTHER MEASURES ON BANK ACCOUNT SWITCHING SHOULD BE INTRODUCED

ACCESS TO A BASIC BANK ACCOUNT

- MANY MEASURES EXIST AT NATIONAL LEVEL, BE IT LEGISLATIVE OR NON-LEGISLATIVE. HOWEVER, THE EXISTENCE OF LEGISLATIVE MEASURES AND THE LEVEL OF BANK ACCOUNT PENETRATION DO NOT GO HAND IN HAND AS OTHER FACTORS SUCH AS THE LEVEL OF ECONOMY, THE USE OF CASH, ETC, HAVE A BIG ROLE TO PLAY
- THE ISSUE OF ACCESS TO NON-RESIDENTS SHOULD NOT BE OVERSIMPLIFIED, AND THE OBJECTIVE OF ACCESS FOR NON-RESIDENTS SHOULD NOT BE PUT IN THE SAME SACK AS ACCESS TO VULNERABLE PART OF THE SOCIETY. AS A MINIMUM, THERE SHOULD BE A LINK BETWEEN THE CONSUMER AND THE COUNTRY WHERE HE WISHES TO OPEN AN ACCOUNT (EMPLOYMENT, EDUCATION, PROPERTY, ETC.). MULTI-BANKING SHOULD NOT BE THE OUTCOME OF EU POLICIES (WHICH WOULD BE INCONSISTENT WITH SEPA)
- IF OPENING OF A BANK ACCOUNT SOMETIMES ENTAILS MORE EXTENSIVE ADMINISTRATIVE BURDENS FOR THE CONSUMER, THIS IS IN OBJECTIVELY JUSTIFIED CASES. BANKS SHOULD ALWAYS HAVE THE POSSIBILITY OF DENYING A BASIC BANK ACCOUNT IN CERTAIN CIRCUMSTANCES, BE IT UNDER THE AML/TERRORIST FINANCING LEGISLATION, OR FOR REASONS SUCH AS SUSPECTED FRAUD, NOTORIOUS NON-PAYMENT OF CHARGES, HARASSMENT OF THE EMPLOYEES OF THE BANK, PROVIDING FALSE INFORMATION
- NO ADDITIONAL MEASURES ON ACCESS TO A BASIC BANK ACCOUNT SHOULD BE CONSIDERED AT THIS POINT IN TIME. EFFORTS SHOULD BE MADE TO FOLLOW THROUGH THE COMMISSION 2011 RECOMMENDATION. IF NEEDS BE, THE ISSUE SHOULD BE TACKLED AT NATIONAL LEVEL

The EACB appreciates the opportunity to comment on the “*Commission services working document: Consultation on bank accounts*”. Representing roughly 4,000 retail banks the EACB has a keen interest in the market of current accounts and would like to express the following observations.

General remarks

TAKING RELEVANT ELEMENTS OF INFORMATION INTO ACCOUNT WOULD BE VERY USEFUL TO CONTEXTUALIZE THE PROBLEM UNDER CONSIDERATION, AND COULD MINIMIZE THE RISK OF DIRECTING STAKEHOLDERS RESPONDING TO THE CONSULTATION IN THEIR ANSWERS

Concerning the issue of bank fees, if a decision is made to make a reference to national studies, such as the OFT study on *Personal current accounts in the UK*, the EACB would consider that a reference to other national studies would be beneficial. Otherwise the relevance of the quoted information in the context of EU policy making is significantly limited. Also,, the EACB would welcome that if the Commission decides to make reference to statements of consumer organisations¹, it should quote all interest organisations. Finally, we would like to draw the Commission’s attention to the fact that, in our view, the 2009 Study “*Data collection for prices of current accounts provided for consumers*” (the 2009 Study on bank fees) does not constitute a valid starting point for considering future policy directions in the area of bank account fees. Concerning switching, we are very surprised that the consultation makes reference only to the 2012 “*Consumer Market Study on the consumers’ experiences with bank account switching with reference to the Common Principles on Bank Account Switching*” (2012 Mystery Shopping Study on Switching), and that other relevant sources of evidence are not taken into account. For instance, we note that the findings of the 2012 *Special Eurobarometer 373 on Retail Financial Services* were disregarded. The same goes to the issue of access to a basic bank account. Once again, important sources of information were dismissed entirely in the consultation document. For example, the findings of *Flash Eurobarometer 243 of 2009 “Consumers’ views on switching service providers”* demonstrating that in terms of penetration, the current bank account is the second highest scoring in Europe², are completely dismissed.

QUESTIONS ARE CLEARLY ADDRESSED TO CONSUMER STAKEHOLDERS

Some questions of the current consultation seem to be addressed specifically to consumers, which makes it quite challenging for the EACB to respond.

Answers to questions

TRANSPARENCY AND COMPARABILITY OF BANK ACCOUNT FEES

Question 1:

Do you consider that the information provided by banks on bank account fees is presented to consumers in a sufficiently clear manner and easy to compare between banks?

What good practices could you identify? What are the persisting shortcomings?

Do you think that amendments to the transparency obligations in the Payment Services Directive (2007/64/EC) could address those shortcomings?

YES, WE CONSIDER THAT COMPREHENSIVE INFORMATION ON BANK ACCOUNT RELATED FEES IS PROVIDED TO CONSUMERS. IN ADDITION, THE EACB MEMBERS ARE COMMITTED TO CONTINUE ENSURING THE QUALITY OF THIS INFORMATION, IN ORDER TO RESPOND TO THE FUTURE EVOLVING NEEDS OF CONSUMERS

The quality of information provided by banks to consumers on bank account fees has been on the rise over the last years. As a first step, the implementation of the information requirements contained in the Directive 2007/64/EC on payment services (PSD) improved the

¹ see quote of BEUC statement on p.3 of the consultation document

² P. 6

accessibility of information for consumers on payment services³. There are also several other European regulatory measures which concern credit⁴, and thus affect overdrafts. It must be recalled that the implementation efforts required from the banking industry in this respect were significant and the effects that this legislation has been able to bring towards the improvement of transparency of bank fees has not been properly measured up till now. On top of that, The recently published *“Market study of the current state of play in Member States regarding initiatives in bank fee transparency and comparability in personal current bank accounts”* of 19 January 2012 (the 2012 Study on bank fees) concludes that the *“analysis show that the effectiveness and efficiency of these tools is improved”*.

THE EXISTING GOOD PRACTICES WERE IDENTIFIED IN THE PRINCIPLES ON TRANSPARENCY AND COMPARABILITY OF BANK FEES AS PROPOSED BY EBIC IN SEPTEMBER 2011, AND THE EACB MEMBERS REMAIN COMMITTED TO IMPLEMENT THEM

Following the invitation from Commissioner Barnier for the banking industry to develop self-regulation on bank fees, EBIC federations had launched a wide consultation of their respective members to have a clear picture of what is already in place at national level. The results showed that in addition to European legislative requirements, many Member States and banking communities went further and a large number of initiatives have been undertaken (be it on legislative or voluntary basis by banks). In 2011 the EBIC federations, including the EACB, made a huge effort and developed a sound self-regulatory proposal that would have offered significant benefits for European consumers in 27 Member States in terms of more transparency and better comparability of bank account fees. . The level of detail of the proposed EBIC principles reflected the diverging situations throughout the EU, and went as far as it could allowing at the same time national banking communities to adapt the European principles to their national markets specifics.

IT IS TOO EARLY TO DECIDE ON ANY NEW MEASURES ON BANK ACCOUNT FEES. NUMEROUS INITIATIVES EXIST AT NATIONAL LEVEL, WITH MANY OF THEM BEING VERY RECENT. SUFFICIENT TIME SHOULD BE ALLOWED FOR THE EFFECTS OF THOSE INITIATIVES TO ‘KICK-IN’

The 2012 Study on bank fees identified 486 relevant initiatives (an average of 18 per Member State). In terms of the type of initiatives, out of 6 categories identified in the study, the vast majority of the countries have all 6 types in place, with a very limited case of 3 countries having 3 types of initiatives. The study found that *“for all initiatives [i.e. initiatives on bank fees transparency and comparability analysed in that study, including glossaries, disclosure of lists of fees, comparison tools, financial education, market studies] an increase in their frequency in recent years has been observed”*⁵. Further it is clarified that *“the period 2009-2011 shows a particular development of these initiatives”*⁶. The EACB considers that the current provisions of the PSD, with the options for Member States on periodic disclosure, coupled with national legislative and self-regulatory measures and actions taken by public authorities and non-profit organisations, provide a solid ground for improving the transparency and comparability of bank fees. As many of them are relatively new (1-3 years old), the EACB would strongly encourage allowing those initiatives a chance to succeed, before further analysis is made. The EACB does not consider that further EU legislative proposals at this stage would be appropriate, be it within the framework of the PSD or otherwise.

Question 2: Do you think that standardising bank account fee terminology could help to provide more transparent and comparable information on fees?

If terminology were to be standardised, should that standardisation cover all fees or only some of them?

If only some of them, on the basis of which criteria should they be chosen?

Should terminology be standardised at national or EU level?

³ Following the entry into force of the PSD, all banks fulfill the requirement to provide *ex-ante* information. The PSD introduced an obligation on all payment services providers (PSPs) to provide the user (i.e. the consumer) with the information on the charges for the payment transactions before and after the execution of the payment, and also there is a Member States' option to require periodic provision of information about the charges (Art 41-43, 47 PSD)

⁴ Directive 2008/48/EC on consumer credit (CCD)

⁵ P.7 of the 2012 study on bank fees

⁶ Idem, P.45

THE EACB COULD SUPPORT AN EFFORT TO, WHERE NEEDED, USE COMMON TERMINOLOGY FOR SERVICES RELATED TO A PERSONAL CURRENT ACCOUNT FEES. HOWEVER, THIS SHOULD NOT IN ANY WAY SUGGEST PRODUCT STANDARDISATION, WHICH WOULD HAMPER INNOVATION AND COMPETITION AT THE DETRIMENT OF THE CUSTOMER INTEREST

At the start, we would like to clarify that terminology refers to services, not fees. Most of all, the use of common terminology should not mean standardisation of products, which is difficult to separate if products that differ from each other are to be called by the same name. We wish to recall that bank accounts and related services were developed to some degree in isolation, within national markets or by different types of banks. This was completely justified given that the products were shaped in such a way as to respond to local consumer's needs and expectations. Finding now the exact equivalents may be challenging, particularly if it is opted to cover by this exercise the terminology for all services/fees. It must therefore be ensured that businesses continue to have the freedom to design products best suiting consumers' diverse needs. It should also be recognised that banks have different business models and distinguish themselves through offering different products. Banks should be free to portray their identity towards the consumer by using brand names, especially for marketing and advertising materials. The importance of maintaining the ability to use brand names is also beneficial for consumers, who may be more familiar with the brand names than the new 'harmonised' terms.

THE USE OF COMMON TERMINOLOGY SHOULD BE LIMITED TO THE MOST COMMON SERVICES RELATED TO A PERSONAL CURRENT ACCOUNT FEES

The EACB is not clear on what 'all fees' would actually mean in practice, particularly when talking about such a specific product as a bank account. For example, whilst in some Member States an overdraft is a standard service of a bank account, in others it will rather be cheques. Also, different consumers' expectations within a Member State would vary. Finding common terms for all services would mean including very rarely used services or unique services offered only by some individual banks. This would have to lead to artificial creation of equivalent services by other providers, which would ultimately diminish the user value of the terminology. Finally, a using common terminology for all services would mean it would be impossible to keep the list up-to-date as new services are continually being developed by individual banks. In conclusion, common terminology for all services related to a personal current account would be in our view virtually impossible to achieve, and would unavoidably and unnecessarily make it too complex for consumers to be useful. Thus, the EACB considers that using of the common terminology should be limited to the most common services.

THE CRITERIA TO IDENTIFY MOST COMMON SERVICES SHOULD BE DECIDED AT NATIONAL LEVEL

Elements that could be considered to identify those most common services would include for example most frequent transactions, most accessed facilities and guidelines set by national regulators, or joined stakeholder committees, where already available. The latter may be relevant in those Member States where most common services are already defined by law or by national regulators. In any case, the methodology for identifying the most common services should be based on the experience in the different banking communities.

COMMON TERMINOLOGY COULD BE INTRODUCED ONLY AT NATIONAL LEVEL

We wish to emphasize that, if any, measures could only be developed at national level. Obstacles preventing a successful development of EU terminology include different languages, difficulties with interpretation of EU terminology, different services, etc. Please refer to our answer to question 6 for further explanation.

Question 3: Do you think that glossaries of terms and standardised lists of bank fees would facilitate comparability?

If so, what format and content should this information have?

What body/forum would you consider appropriate to develop such a glossary/standardised list of fees?

CONCISE STANDARDISED LISTS OF FEES COULD PLAY A ROLE IN FACILITATING COMPARABILITY, AS LONG AS THEY DO NOT IMPOSE PRODUCT STANDARDISATION. GLOSSARIES DO NOT DIRECTLY IMPROVE COMPARABILITY

In our view it is vital that if common terminology or glossaries are used, it is done in the manner that does not impose any form of product standardisation. A continued freedom to develop and offer innovative products in innovative ways to customers is essential if the banking sector is to contribute to the effort to increase European competitiveness and to offer competitive alternatives to non-bank non-European payment solutions. It is also in the interest of the consumers. Having said that, an option of using common terminology for the most common services could be considered. Glossaries could have a financial education function and could help consumers understand better the services related to a bank account. In turn, consumers equipped in better understanding of terms are more likely to understand different offers better and as such compare more effectively.

GLOSSARIES AND LISTS OF FEES SHOULD BE ATTRACTIVE FOR CUSTOMERS TO BE USED, IN TERMS OF BOTH FORMAT AND CONTENT. THEY MUST BE CONCISE ENOUGH TO BE 'MANAGEABLE'. THE PARTICULAR OBSTACLES EXISTING IN SOME MEMBER STATES CONCERNING THE DISTRIBUTION OF THE GLOSSARIES SHOULD BE APPROPRIATELY ADDRESSED

The common terminology should be limited to the most common services (please refer to the answer to Question 2). Also the glossaries, in order to be useful for the end-user, have to be concise. We would strongly encourage the Commission to recognize that a brave choice has to be made between the glossaries being 'all-encompassing' encyclopedias, complete but presenting no added value for the end users compared with contracts, or an easy, non-legally-binding tool with general information, which can be further complemented with explanations or general financial advice, be it provided by banks or non-profit organisations. Thus, the EACB considers that any glossaries should cover a limited number of most typical services used by customers. The existing glossaries should be duly taken into account in order to act efficiently and not duplicate already existing and well functioning solutions. In this context, the EACB would like to stress that the fact that in many Member States glossaries are not developed only for current accounts should not be assessed negatively⁷. The co-operative banks are strongly focused on a universal consumer-bank relationship where ideally the bank account is a gateway to other services the consumer may require. At this occasion, we wish to recall that in some Member States, under the existing legislation, the court is under the obligation to interpret contracts with consumers taking into account all circumstances, which could also include glossaries, even if the former are not directly linked to the contract⁸. If glossaries are to be developed, appropriate solutions to this problem must be found beforehand.

THE USE OF THE STRUCTURES OF COOPERATION BETWEEN RELEVANT STAKEHOLDERS WHICH EXIST IN EACH MEMBER STATE COULD BE CONSIDERED FOR THE PURPOSES OF DEVELOPING COMMON TERMINOLOGY OR GLOSSARIES The lists of fees and glossaries should be developed nationally. A possibility of cooperation with other stakeholders, including consumer organisations, could be considered, depending on the general setting in each country. The best practice that had already worked in a given Member State should be always exploited. Also the entities responsible for making glossaries available, as well as the method of making them available, should be determined at national level, depending on the legal context and consumer expectations and habits.

Question 4: In order to further increase bank account fee transparency and comparability, which of the following tools should be considered:

i) comparison websites managed by public authorities

⁷ P. 3 of the commented Commission consultation document

⁸ By way of an example, under a Civil Code of one of the Member States (i.e. Germany), which deals with the issue of interpretation of a declaration of intent, when interpreting a declaration of intent the true intention shall be explored and not the literal meaning of the expression. In light of this, a glossary explaining the meaning of certain terms used in the contract will be seen as an interpretation of the contract, and the bank may be held liable for the content of the glossary. A disclaimer stating that the glossary is legally not binding, would not always solve this problem, as in case of doubts about the interpretation of general terms and conditions, those doubts shall be interpreted to the detriment of the provider (in other words, in favour of the consumer). Any contradiction between the contract form and the glossary would be interpreted at the expense of the credit institution. Further, a disclaimer would not solve the problem because it would be treated as a form of circumvention, which is prohibited.

- ii) standardised cost simulations to be provided by banks
 - iii) standardised representative examples to be provided by banks
 - iv) surveys by consumer organisations/financial ombudsman
 - v) any other tools you consider relevant?
- Should any of them be made compulsory? What would be the likely costs?

THE SOLUTIONS CONSIDERED IN THE CONSULTATION CONCERNING BANK FEES SEEM TO BE FOCUSED ON COMPARISON BASED PURELY ON PRICE AND SEEM TO UNDERESTIMATE OTHER IMPORTANT QUALITIES AND CONSUMER PREFERENCES

From reading the consultation, we get the impression that the Commission's view of what is a competitive banking industry is based only on price. We would like to remind the Commission that there are many more elements of service that may be important to the consumer and that may add to their preferences, such as local presence, knowledge of the local market, safety of the bank, quality of the personal contact, etc. At this occasion we would like to state once more that co-operative banks are local banks, focused on providing quality service to their local community and not purely oriented on the price-based competition. Against this backdrop, it seems to us that the Commission somewhat disregards the quality level of services and attempts to compare products which in fact are incomparable, i.e. bank accounts developed in different communities under various influencing factors, including consumer expectations and behaviour.

Re i) Comparison websites

COMPARISON WEBSITES COULD HAVE A ROLE TO PLAY AND ALREADY EXIST IN SOME NATIONAL MARKETS. CREATION OF SUCH WEBSITES SHOULD NOT BE A RESPONSIBILITY OF BANKS, NOR SHOULD IT LEAD TO IMPOSING ADDITIONAL COSTS OR REPORTING OBLIGATIONS ON BANKS. THE INDEPENDENCE OF SUCH WEBSITES MUST BE GUARANTEED

The EACB recognises potential benefits of such websites. Those, however, could be run for example by public authorities, and the creation of such websites should not be a responsibility of banks, nor should it lead to imposing additional costs or reporting obligations on the latter. Appropriate mechanisms should be ensured to monitor the quality of the comparison service provided. We would like to stress that under the existing legislation banks are already obliged to publish their tariffs which are readily available to anyone who wishes to use them. Therefore, setting up of comparison websites should not impose additional reporting requirements on the banks.

On the side note, we would like to mention that although comparison websites could be useful for consumers, they should not be considered as a final oracle in assessing the quality of the offer of an individual retail bank. The latter would promote competition based purely on price, which in our view is not the right approach. Therefore, it is our opinion that such websites should be accompanied by a clear explanation for all potential users that the ranking is based purely on price and does not take into account any other potential benefits, such as quality of service, reliability of the provider, etc.

Re ii) Standardised cost simulations provided by banks

SIMULATIONS COULD BE CONSIDERED IF THEY ARE PROVIDED ON A VOLUNTARY BASIS. HOWEVER, THEIR EFFECTIVENESS IS LIMITED DUE TO THE DIFFICULTIES IN CREATING RELIABLE USERS' PROFILES

It is not very clear what is meant by 'cost simulations'. If this is about web calculators, such tools are already made available to consumers by some providers on a voluntary basis. However, as such tools are expensive to develop (setting up of consumer usage profiles, etc.) they should remain voluntary. There is also the fact that, as argued by the EACB in the context of the 2009 study on bank fees, there is no such thing as an 'average/typical/standard consumer'. Thus, besides the high costs related to the development of such profiles, their usefulness is also relative.

Re iii) Representative examples

THE EFFECTIVENESS OF REPRESENTATIVE EXAMPLES IS LIMITED DUE TO THE DIFFICULTIES IN CREATING RELIABLE USERS' PROFILES

The EACB would imagine that the idea behind the representative example is to provide indicative estimates of the costs of holding a bank account based on an account usage profile that tries to reflect typical client behaviour. The EACB would like to reinstate that the concept of an 'average/typical/standard consumer' is an artificial one. While the example would be 'representative' for some consumers, it would not be for others. In fact, the attempt to build profiles on an EU level had been made by the authors of the 2009 study and it had been clearly demonstrated that this was not a feasible project and in the end the profiles were not reliable.

Re iv) Survey tools

THE EACB IS NOT OPPOSED TO SURVEY TOOLS, AS LONG AS THEY ARE USED FOR PROVIDING GENERAL INFORMATION TO CONSUMERS, RATHER THAN TAKEN AS A BASIS FOR POLICY ACTIONS

Consumer organisations are always free to carry out surveys and other exercises to help consumers find 'the best deal'. This is in fact one of the roles of such organisations which is fully recognised and appreciated by the EACB. One point of concern, however, is the methodology of such surveys and the way in which the results are being used afterwards. Consumer organisations' surveys should in our opinion only lead to general information provided to consumers, and not be used as a basis for policy actions, such as legislation. The latter always require fully-fledged studies of the market based on reliable and scientific methodology that can be back-tracked, as well as on full impact assessment.

Question 5: What level of detail should the information on actual fees paid have and how frequently should it be provided to the account holder?

Would having comparable information on the fees actually paid encourage consumer mobility, including on a cross-border basis?

ALREADY UNDER THE PSD BANKS ARE UNDER THE OBLIGATION TO PROVIDE THE CONSUMERS WITH THE INFORMATION ON FEES PAID

The PSD introduced an obligation on all payment services providers (PSPs) to provide the user (i.e. the consumer) with the information on the charges for the payment transactions before and after the execution of the payment, and also there is a Member States' option to require periodic provision of information about the charges⁹.

THE LEVEL OF DETAIL WILL DEPEND ON HOW THE FEES ARE CHARGED. SUCH INFORMATION COULD BE PROVIDED ON A PERIODIC BASIS, AT LEAST ONCE A YEAR

As a general comment, we would like to point out to certain contradictions in the general policy, when the industry is asked for more information and for less information at the same time. Indeed, in the context of the discussion on ex-ante information, on the one hand a list of 10 most common services was considered as insufficient, on the other hand, full lists of all services were criticized as too long and complex. The EACB in principle disagrees with the focus on the high number of information elements, and already back in 2009 we had argued that *"The simplicity measured by the number of components will be relative, and as such unreliable"*¹⁰.

As this question concerns the information on fees that were 'actually paid', the level of detail of the ex-post information on fees should simply depend on how the fees are charged (if the consumer paid one flat fee for all services received naturally the level of detail will be lower than if he paid for each and every service separately). Thus, in our view there is no room for creativity here, and the discussion on the level of detail belongs rather to the consideration of ex-ante information. As an additional remark, we would like to stress that any information of fees actually paid must be limited to the fees levied by the 'account-keeping bank' only. This is due to the difficulties for banks to provide such information on amounts charged by another bank, for example in the case where a cash withdrawal is made by the European consumer in

¹⁰ c.f. EACB position paper 2009

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the US. This does not mean that the consumer will not be informed of such fees; the difficulty is merely to include this in a bank's own summary of fees charged. The ex-post information could be provided on a periodic basis, at least once a year.

HAVING COMPARABLE EX-POST INFORMATION WOULD NOT IN OUR VIEW INFLUENCE CUSTOMER MOBILITY. THE LATTER, BE IT AT NATIONAL AND EU LEVEL, DEPENDS ON NUMEROUS FACTORS, INCLUDING CONSUMER SATISFACTION, CONVENIENCE, LANGUAGE BARRIERS, LOW DEMAND TO BUY FINANCIAL PRODUCTS IN ANOTHER MEMBER STATE

It should be realized that not always is the added value of ex-post information apparent, as the ex-post information on the fees actually paid will differ from ex-ante information only where actual fees depend on the consumer's payment behaviour. Also, it must be remembered that ex-post information's comparability will always suffer an obvious limitation, because while elements such as frequency or graphic layout of the ex-post information could be to some extent harmonized (but still only at national level), the content will always be fully dictated by the 'consumption' by each individual consumer. In addition, the EACB would encourage the Commission to take note of the *Special Eurobarometer 373* which finds that: *"Eight in ten (80%) [consumers] say they would not consider buying a financial product in another EU country in the future. The main reason is most do not see any need to do so, as they can purchase all the financial products they need in their own country, or they prefer to do so"¹¹*, and that *"The main reason why people do not purchase financial products in other EU countries is that they feel they can already access everything they need in their own country. A third (32%) of respondents gave this explanation."¹²*

Question 6: What other measures/instruments should be considered in order to improve the transparency and comparability of bank fees?
Please describe and indicate at which level (national or EU) you consider they should be taken.

NO OTHER MEASURES ON BANK FEES, OTHER THAN FINANCIAL EDUCATION ARE RECOMMENDED. THERE ARE ALREADY NUMEROUS INITIATIVES (LEGISLATIVE OR NON-LEGISLATIVE) INTRODUCED AT EU AND NATIONAL LEVEL, THAT ARE RELATIVELY NEW

The EACB would like to stress that there is already a large number of initiatives and legislation on transparency and comparability of bank fees, all of them relatively new. They provide for a good combination of instruments that are considered to be most effective in a given national context. In the EU, the effects of the PSD are yet to be fully assessed. In addition, EBIC has already proposed its own initiative measures which are ready for implementation. The 2012 study on bank fees found that *"for all initiatives an increase in their frequency in recent years has been observed"¹³*, *"the period 2009-2011 shows a particular development of these initiatives"¹⁴*, and *"the effectiveness and efficiency of these tools is improved"*. We would therefore strongly recommend holding off with any further initiatives until the ones already in place are fully assessed.

At this occasion we would like to stress that consumer and other non-profit organisations also have an important role to play in parallel to the efforts made by the banking industry and actions taken by legislators and enforcers. The 2012 study on bank fees finds that *"they [consumer organisations] appear well informed about the personal current account markets, consumer behaviour"*. Thus, while co-operative banks fully appreciate their responsibilities, the tasks of consumer organisations and public authorities should not be neglected. The EACB would also agree with the suggestion of the 2012 study consultant to keep up the studies on consumer behaviour¹⁵. Finally, the EACB would also like to stress the need of financial education and general financial advice to consumers. This element, in the grand scheme of improving transparency and comparability for consumers, although somewhat unpopular with some European consumer organisations, should not be underestimated.

¹¹ P. 31 of the 2012 *Special Eurobarometer on Retail Financial Services*

¹² Idem, P. 42

¹³ P.7 of the 2012 study on bank fees

¹⁴ Idem, P.45

¹⁵ Idem, P. 9

IF ANY, INITIATIVES SHOULD BE TAKEN AT NATIONAL LEVEL. IN ANY CASE, ANY LEGISLATIVE INSTRUMENT PROPOSED SHOULD ALLOW SUFFICIENT FLEXIBILITY FOR THE MEMBER STATES. Based on the analysis of the EBIC inventory of the existing measures on bank account fees transparency and comparability¹⁶, it is clear that there is a wide variety of situations in Member States. Those differences on 'the how and the what' of the solutions in the different banking communities is the best testimony to the differences in the national circumstances, which can be explained by important differences in: (i) the structure of the banking industry which in turn results from factors driving the economic development strategy of different countries such as: centralised versus decentralised governance; density of population, etc; (ii) behavioural patterns which have developed in accordance with consumer preferences over time; (iii) choices made by Member States in the transposition of the one or the other European directive; and (iv) individual legal initiatives taken by different Member States. In addition, it is worth recognizing that while in some communities the issue of bank fees is not considered to be problematic, in others perhaps there is more demand for relevant initiatives. The EACB had welcomed the fact that the national character of the retail banking was acknowledged by the Commission representatives during the 2010 European Consumer Summit, as well as in the Commission's letter of 20 October 2010, in which the Commission explains its expectations from the EBIC self-regulation, where it is stated that the solutions *"should be developed and implemented at national level"*. The EACB strongly recommends maintaining this line of thinking because during the work which followed this invitation it became even more apparent that finding a common denominator at EU level would not be possible, the exercise being already challenging when national level is considered. In the context of any actions being considered, we would suggest carefully analysing what and where is missing, designing measures targeting specifically those deficiencies and allowing sufficient level of flexibility, rather than regulating across the board.

SWITCHING BETWEEN PAYMENTS ACCOUNT PROVIDERS

Question 7: Do banks in the Member State where you have a bank account offer a switching service?

If yes, is it in line with the Common Principles on bank account switching described above?

Is information on the conditions of switching presented in a consumer friendly manner?

EBIC PRINCIPLES PROVIDING FOR A SWITCHING FACILITY HAVE BEEN IMPLEMENTED IN ALL 27 MEMBER STATES. YES, THE SCOPE OF NATIONAL MEASURES IS GENERALLY IN LINE WITH THE COMMON PRINCIPLES AS DEFINED BY EBIC, ALTHOUGH THERE MAY BE ROOM FOR IMPROVEMENT IN TERMS OF THE EFFECTIVENESS OF THE IMPLEMENTATION AS THE PRINCIPLES ARE STILL RELATIVELY NEW

In fact, in some countries the scope has been extended to include additional services or to reduce the time lapse in which the switching should take place. The information on bank account switching is available on the national banking associations' websites, websites of banks and also at bank branches. In some countries, the adoption of the principles was communicated by the press and information on switching continues to appear in the media, including on radio and television. The overall level of implementation must be considered a highly successful achievement, in comparison with existing self-regulatory initiatives at European level, but also in comparison with the average lapse of time necessary to transpose and implement legislative initiatives at EU level. The EACB members are committed to continuous effort in improving the level of this service within the framework of the Common Principles.

On this occasion, the EACB would like to express its concern about the mixing of two different issues in the 2012 Mystery Shopping Study on Switching: (i) the assessment of the compliance with the Common Principles, and (ii) the assessment of the 'successful switch', which may go beyond the formal provisions in the Common Principles¹⁷. While an attempt to assess the effectiveness of the EBIC Principles would be absolutely valid, the constant mixing of the two issues biases the overall picture, leading to several indirect suggestions of non-compliance with the Common Principles when it is not actually the case. For example, the shoppers were

¹⁶ which were presented to the Commission on 12.1.2011

¹⁷ P. 17

asked whether the information provided “referred to the Common Principles”, or whether it was made clear that the switching service would be for free – neither of those were in fact requirements of the Common Principles. Since “the mystery shoppers themselves are not provided with any details of the regulations [including the Common Principles]”¹⁸ it is questionable how they could actually carry out the compliance assessment properly if they are not aware what the banks are supposed to be compliant with.

YES, THE INFORMATION ON SWITCHING IS PRESENTED IN A FRIENDLY MANNER, WHICH HAS BEEN CONFIRMED BY THE LATEST MYSTERY SHOPPING

As mentioned before, it is not easy for the EACB to answer this question which is clearly addressed to bank account holders (i.e. consumers). However, it is worth pointing out that it is in the own interest of the bank to provide the consumer with information on conditions for switching in a comprehensive manner, with a step-by-step guidelines. According to the latest 2012 Mystery Shopping study the majority of consumers found the information to be clear, and 81% of consumers received the information from at least one source¹⁹ (website, staff member, or literature, respectively). We consider that there is no sense in analysing through which particular channel the information was provided since the EBIC Common Principles only provide that the information should be available ‘on durable medium’ (Principle 2.b). The majority of shoppers found the information to be clear. In this context it is worth remembering that the same study concludes that “the approach outlined in the Common Principles in the right approach in terms of simplifying the switching process”²⁰.

Question 8: If a switching service in line with the Common Principles is offered by banks in the Member State where you have a bank account, does it remove all obstacles to bank account switching?

If not, what obstacles remain?

Provide examples of good practices and persisting obstacles encountered.

YES, SWITCHING IN LINE WITH THE COMMON PRINCIPLES REMOVES THE OBSTACLES IN SWITCHING. MORE TIME IS NEEDED FOR THIS SERVICE TO REACH ITS OPTIMAL EFFICIENCY

Again, the form of address of this question makes it difficult for the EACB to comment. Having said that, we would like to point out that the 2012 Mystery Shopping on Switching study itself concluded that “the approach outlined in the Common Principles in the right approach in terms of simplifying the switching process”.²¹ At this occasion, we would like to take this opportunity to react to the Commission’s arguments used in the discussions with the EACB that perceptions of consumers (which are the subject of the analysis of the Eurobarometers) are often more positive than their real experiences (which were the subject of the 2012 Mystery Shopping Study on switching). The EACB cannot agree with this statement and the Flash Eurobarometer 243 of 2009 “Consumers’ views on switching service providers” demonstrates just the opposite. Amongst switching of different types of services, the number of responses from consumers who did not try to switch a current account because they thought it might be too difficult is in truth one of the highest (therefore the consumer perception is quite negative). However, when the actual switches are concerned, the current bank account is placed below average,²² with “the highest percentages of consumers that reported difficulties with switching were seen for Internet (7%), fixed telephone (4%), mobile telephone (3%)”. Thus, the real consumer experience was in fact much more positive for consumers than their perceptions were. Similarly, according to the 2012 Special Eurobarometer 373 on Retail Financial Services, 85% of the surveyed account holders have not switched or tried to switch their account “as they do not need to”, while 7% say they switched and it was easy. Only 3% say they have not switched or tried to switch as it is too difficult or too much hassle and just 1% switched and found it difficult, with another 1% saying they tried to switch but gave up. We are therefore talking about maximum of 4% of the surveyed account holders who had problems, did not complete the switch (but we do not know why), or did not even try to switch

¹⁸ P. 17

¹⁹ P. 21

²⁰ P. 29

²¹ P. 29

²² P. 12

(but we obviously cannot know whether they would have been successful if they did). In any case, 4% is a resounding minority compared with the 2/3 quoted in the 2012 Mystery Shopping on Switching, or the 81% who reported problems with switching (but may have been nevertheless successful in the switching itself).

Having said that, we are not ignorant of the fact that problems do occasionally arise, and the EACB appreciates the fact that the 2012 Mystery Shopping Study on Switching identified problems with switching, where consumers were not provided with the required assistance with the switch in accordance with the Common Principles²³. However, as mentioned before those data do not exactly match with the data from other studies and surveys. The low level of consumer complaints suggests that this is not a systemic failure, and the co-operative banks are making continuous efforts to eliminate any imperfections. In this context, the EACB would very much welcome the possibility of receiving further details of all negative cases identified in the Mystery Shopping Study concerning co-operative banks, as to allow us to carry out a follow up with the view of improving the level of compliance with the Common Principles. Finally, we strongly believe that improving the effectiveness of the Common Principles can be better achieved through a better communication between the relevant players (banks, consumers, and third party providers), rather than through binding legislation which in our view would not provide a solution.

WE ARE NOT AWARE OF REMAINING OBSTACLES TO SWITCHING

The available statistics demonstrate that switching is not as difficult as often suggested. According to the 2011 GfK survey *"Monitoring consumer markets in the European Union"*, *"switching [of bank accounts] is considered relatively easy, consumers gave an average score of 7.0 out of 10 when asked how difficult or easy it was to switch. This score is above the average for all switching markets (6.8)"*. In fact, according to this survey amongst consumers who actually did switch the provider, the feedback was that switching a bank account was easier than switching telephone, TV or gas provider²⁴. This matches with the results of a 2007 Deutsche Bank customer survey in which no less than 90% of the new customers surveyed said that switching account was easier than expected and that the banks concerned cooperated well. All this suggests to us that there are no major obstacles with switching a bank account. Finally, we would like to stress that the levels of switching, which by some stakeholders and policy makers is considered to be too low, is in our view a result of high customer satisfaction rather than problems with switching. In turn, high switching rates should not be an objective that is to be attained at all costs.

Question 9: Should the Common Principles remain voluntary?

What do you consider are the advantages or disadvantages of making them compulsory at EU level?

What would be the likely costs?

YES, THE COMMON PRINCIPLES SHOULD REMAIN VOLUNTARY

The EACB is of the belief that the Common Principles should remain a voluntary code. They have been implemented in all 27 Member States and although banking associations, be it at national or EU level, have no enforcement powers over their member banks, considerable and unprecedented efforts were made to diligently follow through the implementation and evaluation process. The Commission and BEUC were involved in every step of the process and the current level of implementation must be considered a highly successful achievement, in comparison with existing self-regulatory initiatives at European level, but also in comparison with the average lapse of time necessary to transpose and implement legislative initiatives at EU level.

MAKING THE PRINCIPLES COMPULSORY WILL NOT SOLVE THE PROBLEM OF THEIR EFFECTIVENESS

Better awareness and better communication between the parties (banks, customers and providers) would be a more pragmatic approach. Taking up now the challenge of turning the EBIC self-regulation into legislation would totally go against the principle of proportionality.

²³ P. 26

²⁴ P. 59

Including these commitments in a European legislative dimension would freeze the scope and reduce the potential for flexibility and rapid adaptation that self-regulation allows.

TRANSFORMING THE COMMON PRINCIPLES ON SWITCHING INTO AN EU BINDING MEASURE WOULD MEAN SIGNIFICANT ADJUSTMENT COSTS

The costs and efforts would be unreasonable and unjustified efforts and costs, first for the European legislator, and then of the banks, who no doubt would have to introduce changes, minor perhaps when seen on paper, but significant when transposed into market reality.

Question 10: Should switching principles/measures also cover cross-border switching of bank accounts?

NO. THE COMMON PRINCIPLES SHOULD NOT BE EXTENDED TO COVER CROSS-BORDER SWITCHING OF BANK ACCOUNTS

The EACB would like to stress that switching on a cross-border basis would be highly challenging, particularly for small co-operative banks which do not operate outside their countries or even local areas. The cross-border dimension of bank accounts seems to be generally oversimplified by the Commission. The language barrier for one should be considered. It cannot be expected that the staff of a small co-operative bank in one Member State, that does not operate on an international basis, will suddenly start dealing with the staff of another local bank in another Member State, in a situation where they do not speak the same language. Also, the procedures for setting up the direct debits and standing orders are still very different, and as such switching on a cross-border basis would be far more complex than at national level and certainly could not be completed within 14 days. Tax and currency exchange implications are another aspect that would make cross-border switching difficult and costly. There are also national differences in payment habits and services. Certain used services may not be in use in other member states for example when it comes to invoicing. The cost of any extension would have an impact on the price of the service and would be disproportionate to the small target concerned.

The EACB would wonder what the added value of cross-border switching would be anyway. The main aim of the Common Principles was to ensure that if the consumer wishes to change banks, he may do so without the fear of recurrent payments (incoming or outgoing) being lost. The cross-border switching, as we would imagine, would be a solution for citizens moving from one Member State to another. Thus, most of the consumer's incoming and outgoing recurring payments would not be transferred (moving country would mean a new job, new utility providers, new social security contributions, etc.) and the usefulness of the cross-border switching is not clear. As mentioned in the context of bank fees, consumers are not interested in purchasing financial services cross-border. The *Special Eurobarometer 373* finds that: *"Eight in ten (80%) [consumers] say they would not consider buying a financial product in another EU country in the future. The main reason is most do not see any need to do so, as they can purchase all the financial products they need in their own country, or they prefer to do so"²⁵*, and that *"The main reason why people do not purchase financial products in other EU countries is that they feel they can already access everything they need in their own country. A third (32%) of respondents gave this explanation."²⁶*

Finally, the EACB strongly believes that the issue of cross-border opening of a bank account and switching should not be mixed. We would like to stress that obligations on switching should not equate to the right to a basic bank account. It must be emphasised that switching applies only once the consumer has identified a bank which (as a 'new' bank - using the Common Principles terminology) wishes to open a new bank account for that consumer.

Question 11: According to you, how important is the risk of having receipts, bills and payments misdirected when switching bank accounts?
What measures could be considered to make the switching process safer?

²⁵ P. 31 of the 2012 *Special Eurobarometer on Retail Financial Services*

²⁶ Idem, P. 42

THE EBIC COMMON PRINCIPLES FACILITATE EFFECTIVE SWITCHING FOR CONSUMERS AND ARE DESIGNED TO MAKE THE SWITCH AS SAFE AS POSSIBLE

When developing the Common Principles, the first and foremost priority for the banking industry was to help consumers by addressing those very concerns. Because it had been recognised that consumers may be worried about frictions regarding flow of incoming (salary, pensions, social benefits) and outgoing (rent, mortgage, bills, insurance premia, credit card repayments, etc) payments, special attention was paid by the banking industry to the switching of the recurring payments. This is why the Common Principles envisage that:

- The switching applies to all direct debits, standing orders and recurring incoming credit transfers. The 'new' and the 'former' bank will exchange the information necessary to identify all such payments, and the consumer himself may also receive a full list of direct debts and standing orders set up on his 'old' account so that he can verify that the list is correct and complete. In the special case of creditor mandate driven flow direct debits, the 'new' bank will support the consumer in identifying which mandates the consumer has signed (for example by providing sample letters);
- Account identifiers and standard letters are provided to the consumer so that he can inform all relevant parties about his new account (creditors, employers, etc);
- The 'old' account will be closed only on the request of the consumer, who before making the request has the opportunity to verify whether all the recurrent payments have been properly set up on the new account; the closure of the 'old' account cannot take place until it is verified that all outstanding bills were covered and all outgoing and incoming payments have been transferred.

Thus, we consider that there are already measures in place which aim at ensuring that the switching process is as safe for the consumer as possible.

THE EFFICIENCY OF THE PROCESS COULD STILL BE IMPROVED BUT WOULD NOT BE DRIVEN BY LEGISLATION BUT BY BETTER AWARENESS AND BETTER COMMUNICATION BETWEEN THE PARTIES (BANKS, CUSTOMERS AND THIRD PARTY PROVIDERS)

Indeed, the role of consumer partner's, employers, service providers is key for a quick and efficient service and for limiting errors in the transfer of information.

Question 12: What obstacles, if any, are still faced by account providers that are smaller or established in another Member State to expand their client base or to enter new markets? Are these connected to problems with switching facilities?

WE DO NOT BELIEVE THAT THE QUESTION ABOUT OBSTACLES FOR PROVIDERS ENTERING NEW MARKETS BELONGS TO THIS CONSULTATION, AS THEY ARE NOT RELATED TO THE ISSUE OF ACCOUNT SWITCHING

The EACB is at a loss as to the relevance of this question in the context of a consultation on bank account switching. We can only comment that we do not consider that any problems with expanding client base or entering new markets that may be faced by providers is connected to the problems with switching. As already mentioned, the statistics demonstrate that consumers do not switch because they do not see the need to do so, or are satisfied with what they have. Language barriers would be a much more relevant obstacle, as the obligation to translate all the documentation is costly and burdensome. Also, the tax implications of providing bank accounts in a Member State other than where the bank is established are quite significant. The situation where (i) the bank decides to target a specific market and the expected return in a number of new clients could justify the investment in tax advisers with the appropriate knowledge of the tax regime of that targeted country, and the situation where (ii) the bank has to target the whole of the EU and make investments that have no chances to be returned, should not be compared.

WITHOUT ATTRACTIVE, QUALITY SERVICES CONSUMERS WILL HAVE NO INCENTIVE TO SWITCH TO NEW PROVIDERS, NO MATTER HOW EFFECTIVE THE SWITCHING FACILITY PUT IN PLACE WOULD BE

For co-operative banks it is important to establish a long-standing relationship with their clients who often become members, and thus it is of paramount importance that they provide first quality service. For example, the European Economic and Social Committee (EESC) has

recently recognised in its opinion²⁷ that co-operative banks have “a very strong focus on sustainable and socially responsible financing. The effects of their conduct have been reinforced by customers switching their deposits and loans from private banks to cooperative banks”. As such, co-operative banks would not count on the switching facilities to expand their client base, but would rather bet on offering attractive and reliable services.

Question 13: What other measures should be considered to improve bank account switching? Please describe.

NO FURTHER MEASURES ON BANK ACCOUNT SWITCHING SHOULD BE INTRODUCED

With the Common Principles, the banking communities are committed to providing the necessary tools for consumers to switch their current account when they wish to do so. All consumers in the European Member States now have all necessary instruments at their disposal. It is thus not the quality of the Common Principles that the current focus should be on, but rather the ways of controlling the compliance with these principles at the national level. In fact, what we would really encourage to consider is whether more switching is actually desirable. From the very beginning the EACB and other EBIC federations argued that the success of the Common Principles should not be measured by whether or not the number of switching has increased. It is very important to remember that according to the 2012 Eurobarometer “Over eight in ten European consumers have never considered switching providers for their products due to a lack of perceived need”²⁸. In conclusion, while conducting national studies in the Member States where no such reports have been published so far, could perhaps provide some insight into possible ways of further improving the level of application of the Common Principles, the EACB considers that any further action across the board would be superfluous and disproportionately expensive.

ACCESS TO A BASIC PAYMENT ACCOUNT

Question 14: Do you dispose of information on consumers encountering difficulties in access to a basic bank account?

What types of obstacles are signalled by the consumers preventing them from having access to a basic bank account?

WE ARE NOT AWARE OF SYSTEMIC DIFFICULTIES OR OBSTACLES IN ACCESS TO A BASIC BANK ACCOUNT

This question, addressed rather to consumers and consumer organisations, is difficult for the EACB to answer. What we can say is that the low level of complaints registered by co-operative banks would suggest that no major obstacles are experienced. The EACB does not wish to deny that access to a payment account may be important to participate in many aspects of life. However, we feel that the potential costs for consumers of not having a bank account, as analysed in the 2010 “Study on the Costs and Benefits of Policy Actions in the Field of ensuring access to a Basic Bank Account – Final Report” (2010 Study on basic bank account), are sometimes overstated. For example, we do not consider that not having a bank account would prevent citizens from accessing jobs. Indeed, a consumer who just signed an employment contract will be considered as a viable potential client by any bank, and therefore the opening of a payment account should not be an issue, while providing bank details to the employer normally takes place after the employment contract has been signed, and not the reverse. Also, the gravity of the consequences of not having a bank account for the consumer will very much depend on the circumstances in a given Member State and the extent of the use of cash to pay out salaries, social benefits, pay bills, etc.

Question 15: Are you aware of any measures taken by banks or other institutions in the Member State where you have your residence to facilitate access to a basic payment account?

Have these initiatives been successfully enforced?

²⁷ Opinion of the European Economic and Social Committee on Cooperatives and restructuring (own-initiative opinion) of 25 April 2012 (CCMI/093)

²⁸ P. 86

MANY MEASURES EXIST AT NATIONAL LEVEL, BE IT LEGISLATIVE OR NON-LEGISLATIVE. HOWEVER, IT MUST BE STRESSED THAT THE EXISTENCE OF LEGISLATIVE MEASURES AND THE LEVEL OF BANK ACCOUNT PENETRATION DO NOT GO HAND IN HAND AS OTHER FACTORS SUCH AS THE LEVEL OF ECONOMY, THE USE OF CASH, ETC, HAVE A BIG ROLE TO PLAY

The EACB would like to emphasise that in many Member States where voluntary charters and codes of practice were developed by the banking industry, the results have been satisfactory. The EACB would therefore like to maintain, and hope that it is duly recognised, that such voluntary measures can bring results comparable to, and sometimes even more practical solutions than legislation.

The provision of access to a basic bank account on a voluntary basis can, and already does work quite successfully in many Member States and results in very high rates of banked citizens (in many cases nearly 100%).

Question 16: Do these measures also facilitate access to a basic payment account for non-residents?

THE ISSUE OF ACCESS TO NON-RESIDENTS SHOULD NOT BE OVERSIMPLIFIED, AND THE OBJECTIVE OF ACCESS FOR NON-RESIDENTS SHOULD NOT BE PUT IN THE SAME SACK AS ACCESS TO VULNERABLE PART OF THE SOCIETY. AS A MINIMUM, THERE SHOULD BE A LINK BETWEEN THE CONSUMER AND THE COUNTRY WHERE HE WISHES TO OPEN AN ACCOUNT (EMPLOYMENT, EDUCATION, PROPERTY, ETC.). MULTI-BANKING SHOULD NOT BE THE OUTCOME OF EU POLICIES (WHICH WOULD BE INCONSISTENT WITH SEPA)

In general, the following should be carefully considered:

– *Clarification of objectives:* First and foremost, the EACB would recommend clarifying the scope of the discussion. It is our strong conviction that the EU discussion should focus on vulnerable, socially excluded citizens who wish to have a payment account but for one of the other reason were denied access. A student who can afford studying abroad can hardly be classified in that category. One cannot help the impression that adding on the issue of migrant students and workers is a somewhat artificial treatment in search of a legal basis for EU legislative proposal.

– *Specific case of co-operative banks:* It would be particularly burdensome, if not impossible, for small co-operative banks acting locally to provide access to persons who at the time of opening the account are not resident in the Member State where the bank is located, because under some national legislation, co-operative banks are prevented from providing services to persons who are not resident in their local area, or even to clients who are not their members.

– *Oversimplification of cross-border access:* The issue of access to a basic payment account for non-residents is vastly oversimplified. It is strictly regulated by EU legislation on anti-money laundering and terrorist financing, and is closely linked to fiscal and tax questions. Thus, any regulation on access to non-residents would have to equally address those issues. Also, the issue of the relevant types of documents required for client identification would need to be resolved. *Multi-banking: Having multiple accounts in multiple countries* should not, in our opinion, be the outcome of EU policies. With SEPA, banks were asked to make the European cross-border market into one large domestic market. Indeed, the concept of national markets was supposed to disappear. This is evidenced by Regulations 2560/2001 and 924/2009 which force banks to no longer discriminate in their pricing for domestic and cross-border payment services, as well as by Regulation 1781/2006 which specifically considered the EU as one single jurisdiction for the transposition of FATF Special Recommendation VII on credit transfers. We are concerned that the opening of accounts in multiple places will put a break on the migration to SEPA. In addition, multiple accounts in various Member States would also mean a significant number of dormant accounts, which – even with the right for the bank to close such an account after a defined period of time – would mean significant costs (money laundering monitoring, reporting, account numbers blockage, bank account statements, etc) which cannot be recuperated if no funds are left on the account, and legal challenges (e.g. what to do with if there is a remaining surplus on the account).

– *Equal spread of responsibility for completing the Single Market:* Evidence suggests that there is not much demand for purchasing retail banking services, including bank accounts, in another Member State. According to the Eurobarometer 373 of 2012, over nine in ten European citizens say they purchased all of their financial products and services within their own country. Eight in ten (80%) say they would not consider buying a financial product in another EU country in the future. The main reason is most do not see any need to do so, as they can purchase all the financial products they need in their own country, or they prefer to do so.

The EACB is opposed the tendency of putting the entire pressure on banks to ensure smooth functioning of the freedom to move, and would welcome a more comprehensive approach. Thus, we welcomed the most recent SEPA End Date Regulation provisions (Art 8.2) which stipulates that payers cannot refuse payments from an account outside their country if they accept payments from accounts in their country. This should address the problem of employers and landlords refusing bank accounts which are held in another country then the country where the migrant worker wants to take up his employment or rent a flat for a short term. If all residents have access to a basic payment account in their country of residence, and they can use such an account in other Member States on a non-discriminatory basis, the access to non-residents seems to be redundant.

In conclusion, we would like to point out that consumers who have a link with the country where they wish to open a bank account, be it employment, residence, taking up education, owing a property, etc, should not have a problem with opening a bank account in that country. In this context, we would like to firmly stress that the requirement for a consumer to provide evidence of such a link (i.e. a letter from the local authority confirming the temporary address, a letter from the employer or university, ownership deed, etc) should not be considered as an obstacle or difficulty in opening an account in another Member State. Indeed, it is not only a right, but the obligation of all banks to 'know their customer' and to take necessary measures to prevent fraudulent use of an account. While we recognize the need to ensure that consumers can reap the benefits of the Internal Market, the consequences of misuse of an account are much more serious than of other products or services.

Question 17: If consumers still have difficulties in opening a bank account, what are the reasons for that?

IF OPENING OF A BANK ACCOUNT SOMETIMES ENTAILS MORE EXTENSIVE ADMINISTRATIVE BURDENS FOR THE CONSUMER, THIS IS IN OBJECTIVELY JUSTIFIED CASES. BANKS SHOULD ALWAYS HAVE THE POSSIBILITY OF DENYING A BASIC BANK ACCOUNT IN CERTAIN CIRCUMSTANCES, BE IT UNDER THE AML/TERRORIST FINANCING LEGISLATION, OR FOR REASONS SUCH AS SUSPECTED FRAUD, NOTORIOUS NON-PAYMENT OF CHARGES, HARASSMENT OF THE EMPLOYEES OF THE BANK, INCORRECT INFORMATION PROVIDED BY THE CONSUMER, ETC.

The EACB would like to point out that even though we in general agree with the objective of providing access to a basic bank account to all consumers who qualify for such an account (i.e. person who is resident in the Member State where the account is requested, and is socially disadvantaged, i.e. was already refused a 'regular bank account'), there always must be a possibility for the bank to refuse an account under justified circumstances, including (but not exhausting):

- Suspected fraud
- Combating money laundering and terrorist financing
- Incorrect information provided by the consumer in the context of the contractual relationship,
- Notorious non-payment of charges
- Serious harassment or endangering of employees or customers of the bank,
- Etc.

In this context, the EACB would like to point out that we disagree with suggestions as the banks were to use the anti-money laundering requirements as an 'excuse' to refuse bank accounts. We wish to remind that those requirements were imposed on banks through legislation, and banks are faced with serious liability if they do not fulfill their obligations in this area. Finally, we wish to repeat that the requirement for a consumer to provide evidence of his

link with the Member State where he wishes to open an account should not be considered as an obstacle or difficulty in opening an account in another Member State.

Question 18: If more needs to be done what additional measures should be envisaged? Should the problem be tackled at national or EU level?

NO ADDITIONAL MEASURES ON ACCESS TO A BASIC BANK ACCOUNT SHOULD BE CONSIDERED AT THIS POINT IN TIME. EFFORTS SHOULD BE MADE TO FOLLOW THROUGH THE COMMISSION 2011 RECOMMENDATION

In general, the EACB would question the relevance of the questions concerning access to a basic bank account in this consultation at this point in time. The EACB had welcomed the Commission's choice made back in 2011 to issue a Recommendation to address the issue of access to a basic payment account. This principle-based Recommendation is flexible and in our view, could allow taking into account national specificities. Thus, the EACB questions the Commission's decision to now launch a consultation concerning access to a basic payment account, before even the Recommendation is given a real chance of succeeding, and we are somewhat surprised by the lack of support of the Commission for its own instrument. Finally, the effects of the SEPA are still to be realized and therefore again we think that further assessment of the situation concerning access to a basic bank account at this stage is premature.

The current 2011 COM Recommendation sets very clearly the follow up procedure and envisages means of pressuring Member States to take appropriate action, and as mentioned above, we would very much like to see more support of the Commission for its own instrument. On a side note, it cannot be surprising that some of the Member States are running late with providing the information on steps taken, when the somewhat unrealistic timelines envisaged in the Recommendation are considered. We therefore call for a longer assessment period (at least until the end of 2014), and a proper follow-up on the 2011 Recommendation before taking any further action at EU level. We welcome the amendments tabled in the ECON Committee to the draft own-initiative report, which instead of calling for further EU legislation, request the Commission "to present the European Parliament by the end of 2014 with an independent impact assessment on Member States' legislative or non-legislative measures taking into account its Recommendation 2011/442/EU of 18 July 2011 on access to a basic payment account, before presenting any legislative proposal that may be needed"²⁹.

IF NEEDS BE, THE ISSUE SHOULD BE TACKLED AT NATIONAL LEVEL

If, after that, it is evident that further action is needed, the EACB would like to make the following recommendations:

- *Carefully consider the right tools:* We would like to stress that so far the Commission did not succeed in demonstrating a correlation between the existence of a legal obligation to provide a basic payment account and the proportion of 'banked' population. This is clearly demonstrated by the findings of the 2010 Study on basic bank account. Amongst countries with high level of penetration there are countries where there is no specific framework (e.g. Spain with 98%, Greece with 93, or there is an industry charter (e.g. Germany with 99%, the UK with 98%)³⁰.
- *Continue with SEPA migration.* Take a more comprehensive approach, considering the responsibilities of all actors in the Internal Market, and not only banks'.
- *Carry out proper cost-benefit analysis of the considered initiatives:* We would encourage an even-handed approach, where the consideration of the costs for consumers of not having a bank account is cross-balanced against the costs for banks of providing basic bank accounts. For example, according to the evidence given to the UK Treasury Select Committee in 2011, the average current account cost was estimated at GBP85 per annum (approx EUR105 per annum)³¹.

²⁹ Amendment 63

³⁰ P.2

³¹ Exchange as of 4.5.2012

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtreasy/uc612-ix/uc61201.htm>

- *Respect principles of proportionality and subsidiarity:* The EACB does not believe that there is merit in the introduction of a legal obligation at EU level to provide access to accounts. The provision of access on a voluntary basis exists and can function very well.
- *Make sure banking diversity is not harmed*
- *Focus on national level:*
 - o *Get clarity on the legal basis:* Financial inclusion is a social matter and any EU initiative should therefore in our view be based on Art 153 Paragraph 1 Point (j) of the Treaty on the Functioning of the European Union (TFEU), which states that with a view to achieving the European Union objectives in the area of combating of social exclusion the European Parliament and the Council may adopt measures designed to encourage cooperation between Member States.
 - o *Target the 'problematic' Member States.* Indeed, the situation in various Member States is very different. For example, the banking penetration levels range from 49% to 100%³², and both the reasons and effects for the consumer of voluntary exclusion differ depending on circumstances in a given country, including the use of cash and presence of 'grey economy'. There are clearly big differences between the 'new' and the 'old' Member States, and the demarcation line of the level of penetration matches the line of different level of economic development, historical background, consumers' habits, use of cash, etc. However, even there, if the EU10 are considered the average level of penetration is 90,1%³³, and it is the two latest countries to join the EU that would significantly lower those statistics (Romania: 27%, Bulgaria: 28%³⁴). The EACB accepts that action is needed in a number of Member States and as such, national measures are the most appropriate.

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³² 2010 Study on the Costs and Benefits of Policy Actions in the Field of ensuring access to a Basic Bank Account

³³ Idem

³⁴ Special Eurobarometer 373, p.11