



Electronic Money Association
Crescent House
5 The Crescent
Surbiton
Surrey
KT6 4BN
United Kingdom
Telephone: +44 (0) 20 8399 2066
www.e-ma.org

Nicolo Brignoli
Policy Officer - Payment Services / Retail Financial Services
DG FISMA B.3
European Commission
Rue de Spa 2 / Spastraat 2 •
1000 Bruxelles

4 March 2020

Dear Nicolo

Re: PSD2 Consumer Leaflet [European Commission Leaflet on consumer rights when making payments](#) to be made available by all PSPs on their websites under PSD2 Article 106

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers (“PSPs”). Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

Issue

Under Art. 106 PSD2, PSPs must make the [European Commission Leaflet on consumer rights when making payments](#) available on their websites. We are writing to raise our concerns about the language used in the European Commission leaflet on consumer rights, and its impact on competition in the payments market in the EEA.

- (i) The leaflet chooses to distinguish banks from “other (regulated) payment service providers”, and gives the impression therefore that there may be some hierarchy in the scope or quality of payment services offered –(see for example rows 3 and 4 in the table below).

- (ii) In another part, it restricts the description of the payment service to it being offered by banks -(see row 1 of the table below), inadvertently suggesting that non-banks do not offer such services.
- (iii) In another sentence, the statement is made specifically with reference to banks, and ends with a reference to both banks and PSPs; creating confusion as to the scope of services offered by the different entities – (see row 2 of the table below).

Whilst we understand that some terminology is more familiar to consumers, we believe a level playing field is more important, and educating consumers on the new payment services landscape is also important.

One of the core aims of EU payment services legislation - both PSD1 and PSD2 - was to create a level playing field between banks and non-bank payment service providers by creating a single category of “payment services provider” to which the same consumer protection rules and obligations would apply.

The language used in the leaflet should not distinguish between banks and “other payment service providers” unless there is a specific purpose for such distinction. An explanatory statement in the leaflet clarifying that the term “payment service provider” includes banks can address potential consumer confusion in this regard.

Our members are concerned that the language used in the leaflet will erode consumer trust in their products, by suggesting that there may be an inherent advantage to utilising banks over other payment service providers. Or alternatively, that some payment services can only be offered by banks.

We would therefore welcome a review of the text in the leaflet with a view to increasing consumer clarity regarding their rights when dealing with any PSP, be it bank or non-bank.

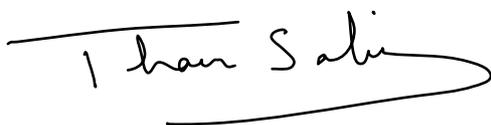
The following table provides extracts from the leaflet, together with suggested changes to the text.

Phrase in leaflet	Preferred text
1. "Cash withdrawals in euro outside your <u>bank ATM network</u> should cost you the same in another member state as in your home country."	Not all ATM networks are offered by banks, in fact increasingly ATM networks are offered by non-banks. We suggest removing the distinction between bank and non-bank ATM networks in the text and simply stating that <i>"ATM cash withdrawals in euro in another member state should cost you the same as in your home country"</i>

<p>2. "Your liability in case of an unauthorised payment – for instance if your credit card is stolen – is limited to a maximum of €50 (except in cases of gross negligence). You will not be liable for any unauthorised payment that takes place after you have informed your bank, or for an online payment if your <u>payment service provider or bank</u> does not provide for strong customer authentication."</p>	<p>The statement is confusing in terms of the rights afforded to consumers of non-banks.</p> <p>Again we suggest simplifying this paragraph to read <i>"..... You will not be liable for any unauthorised payment that takes place after you have informed your payment service provider or.....if your payment service provider does not provide....."</i></p>
<p>3. "Just like banks, these new payment services providers must be licensed and supervised, and have to handle your data securely."</p>	<p>This statement doesn't explain that all payment service protections apply to non-bank PSPs as well as bank PSPs.</p>
<p>4. "Anybody legally residing in Europe has the right to a bank account for making electronic payments ("payment account")"</p>	<p>The statement implies that payment account can only be a bank account.</p> <p>This paragraph could be updated to explain that <i>"Anybody legally residing in Europe has the right to a payment account for making electronic payments"</i>, and then expanded to explain that payment accounts can be offered by banks and non-bank payment service providers.</p>

I would be grateful for your consideration of our comments and proposals.

Yours sincerely



Dr Thaer Sabri
 Chief Executive Officer
 Electronic Money Association

Members of the EMA, as of March 2020:

[AAVE LIMITED](#)
[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[American Express](#)
[Azimo Limited](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network Ltd](#)
[Boku Inc](#)
[CashFlows](#)
[Circle](#)
[Citadel Commerce UK Ltd](#)
[Coinbase](#)
[Contis](#)
[Corner Banca SA](#)
[Curve](#)
[eBay Sarl](#)
[Em@ney Plc](#)
[ePayments Systems Limited](#)
[Euronet Worldwide Inc](#)
[Facebook Payments International Ltd](#)
[First Rate Exchange Services](#)
[Flex-e-card](#)
[Flywire](#)
[Gemini](#)
[GoCardless Ltd](#)
[Google Payment Ltd](#)
[IDT Financial Services Limited](#)
[Imagor SA](#)
[Intuit Inc.](#)
[Ixaris Systems Ltd](#)
[Modulr FS Europe Limited](#)
[Moneyhub Financial Technology Ltd](#)
[MuchBetter](#)
[myPOS Europe Limited](#)
[Nvayo Limited](#)
[One Money Mail Ltd](#)
[OpenPayd](#)
[Optal](#)
[Own.Solutions](#)
[Park Card Services Limited](#)
[Paybase Limited](#)
[Paydoo Payments UAB](#)
[Payoneer](#)
[PayPal Europe Ltd](#)
[Paysafe Group](#)
[PPRO Financial Ltd](#)
[PPS](#)
[QIX Ltd](#)
[Remitly](#)
[Revolut](#)
[SafeCharge UK Limited](#)
[Securiclick Limited](#)
[Skrill Limited](#)
[Soldo Financial Services Ireland DAC](#)
[Stripe](#)
[SumUp Limited](#)
[Syspay Ltd](#)
[Token.io](#)
[Transact Payments Limited](#)
[Transact24 \(UK\) Ltd](#)
[TransferMate Global Payments](#)
[TransferWise Ltd](#)
[TrueLayer Limited](#)
[Trustly Group AB](#)
[Uber BV](#)
[Valitor](#)
[Vitesse PSP Ltd](#)
[Viva Payments SA](#)
[WEX Europe UK Limited](#)
[Wirecard AG](#)
[Wirex Limited](#)
[WorldFirst](#)
[Worldpay UK Limited](#)