10 April 2012: Towards the abolition of inter-bank fees on direct debits and interbank payment orders

Published on April 11, 2012

Within the framework of a procedure conducted by the *Autorité de la concurrence,* banks are proposing to reduce by half – from 1 October 2012 – then abolish – on 1 February 2014 – the main inter-bank fees applied to direct debits, interbank payment orders and other non-cash means of payment

The *Autorité* is organizing a market test during one month to gain stakeholders' views

>Version française

Following a referral by the Fédération des entreprises du commerce et de la distribution (FCD)[1] and the Association pour la défense des utilisateurs des moyens de paiement européens (ADUMPE), the Autorité de la concurrence is investigating compliance with the competition rules for inter-bank fees related to the use of non-cash means of payment other than payment cards and cheques – direct debits, transfers, interbank payment orders (***titres interbancaires de paiement,*** TIP), online payments (***télérèglements***) and electronic bills of exchange (***lettres de change relevé,*** LCR)[2].

Cheques and CB payment cards have already been the subject of decisions of the Autorité, respectively in September 2010[3] (fining decision) and July 2011[4] (decision involving commitments). A separate procedure is under way in respect of non-CB payment cards[5].

During the investigation, the French banks party to the procedure (**Banque de France, BNP Paribas, Société Générale, Crédit du Nord, Crédit Agricole, LCL, BPCE – Banques Populaires Caisses d'Epargne, HSBC, Banque Postale, Crédit Mutuel, CIC**) and their representative association (Fédération bancaire française, FBF) requested the benefit of a negotiated procedure. Within this framework, they proposed commitments that consisted in abolishing from 1 February 2014 the main inter-bank fees covered by the procedure. These same fees would be reduced by half from 1 October 2012.

Today the Autorité makes the French banks' proposals public in order to gain stakeholders' views in the context of a market test.

The competition concerns expressed by the *Autorité*

Investigation of the case revealed the existence between 1969 and the present day of horizontal agreements between banks concerning non-cash means of payment. Behaviours noted consisted in consultations on the collective fixing of inter-bank fees in France: banks decided on a joint agreement to establish single amounts of fees that the creditor's bank (the billing company's bank) pays to the debtor's bank (the paying customer's bank) for each payment by direct debit, online payment, interbank payment order or electronic bill of exchange. Currently, the fee received is €0.122 for a payment by direct debit and €0.076 for an interbank payment order.

On these same means of payment, banks also agreed to create an exceptional fee in the event of rejection (which is applied to 3% of direct debits, 2% of electronic bills of exchange and less than 1% of interbank payment orders and online payments), in an amount of €0.762, likewise paid by the creditor's bank.

Furthermore, fees on transfers concern only a specific and not very widespread transfer: the credit transfer from abroad (*virement d'origine extérieure,* VOE)[6].

The inter-bank fees thus fixed by the main banks are liable to be qualified as restrictions on competition insofar as banks jointly fix uniform amounts of inter-banks fees independently of their actual costs.

In addition, during the investigation, it was found that banks, when they act as creditors' banks, bill creditor customers for each receipt of payment (by direct debit, interbank payment order or online payment), usually at a level greater than the inter-bank fee. Inter-bank fees are therefore passed on to the creditors. Furthermore, when they act as debtors' banks, they receive inter-bank fees and additionally bill certain services related to the means of payment to their customers (see box below for details of these services).

At this stage of the investigation, multilateral inter-bank fees on the means of payment examined do not appear, in principle, vital either to the functioning or the promotion of these means of payment. They do not appear justifiable. Moreover, there is nothing in the record making it possible to justify their amount.

Commitments proposed by the banks: a 50% reduction in all fees from 1 October 20127 and abolition of most of them from 1 February 2014

In response to the competition concerns expressed by the investigation services of the Autorité, the banks proposed to revise downwards all the inter-bank fees and then to abolish the main ones.

- The main fees would be reduced by 50% from 1 October 2012 and then abolished on 1 February 2014:

	today	1 October 2012	1 February 2014
direct debit	€0.122	€0.061	0.00 €
online payment	€ 0.137	€ 0.068	0.00 €
interbank payment order	€ 0.076	€ 0.038	0.00 €
credit transfer from abroad	1.829 €	0.915 €	0.00 €

- **Exceptional fees on rejections would likewise be reduced by 50%** before being reassessed on the basis of a study of the costs incurred by the banks:

	today	1 October 2012	1 February 2014
exceptional fees on rejections of direct debits, interbank payment orders, online payments or electronic bills of exchange	€ 0.762	€ 0.381	to be reassessed

The Fédération bancaire française (FBF) undertakes to distribute to its members – all banks active in France – the commitments subscribed by the banks party to the procedure.

> To consult the exhaustive list of proposed commitments, refer to the market test (in French)

Results of the procedure

The market test organized by the Autorité will last until 10 May 2012 and make it possible to gain the observations of all the stakeholders, particularly billing companies, merchants, associations of users of banking services and consumer bodies. On this occasion the referring parties will be able to submit their observations. When the market test ends, the Board of the Autorité will meet to collate the views of the referring organizations and the banks on this case. It may, if necessary, ask for the commitments to be altered or supplemented then, having made them mandatory, close the procedure for the duration of the commitments. If the commitments, even after being amended, are still not satisfactory, the Autorité will resume the classic contentious procedure.

Non-cash means of payment (excluding CB cards and cheques): a few figures

- Inter-bank fees concerning direct debits, interbank payment orders, electronic bills of exchange and online payments

These are paid by the payee's bank (e.g. the bank of the business that has issued a bill) to the payer's bank (e.g. the consumer paying his bill by monthly direct debit). When just one bank is involved in the transaction (debtor and creditor being with the same bank), the payment does not give rise to an inter-bank fee.

- Number of operations each year (2010 data8):

3.3 billion direct debits, 115 million interbank payment orders. Direct debits alone account for 20% of payment operations, taking all payment methods into account.

By way of comparison, 7.4 billion payments are made each year by payment card and 3.1 billion by cheque.

- Cumulative amounts of payment operations and amounts of fees (2010 data):

The total amount of **direct debits** subject to inter-bank fees was **€471 billion in 2010.** Inter-bank fees on these direct debits amount to **about €250 million per year.**

By way of comparison, CB card payments subject to inter-bank fees come to €260 billion. Inter-bank fees on these payments come to about €1 billion per year.

- Services billed to paying customers

Banking institutions bill certain services to paying customers.

Examples: Setting up of a direct debit (€5 to €8), cancellation of a direct debit (€8 to €12), intervention fee (€6 to €10 per operation subject to the intervention of a bank adviser), rejection of a direct debit or interbank payment order for lack of funds (the legal maximum is billed by most banks, i.e. the amount of the direct debit not realized or €20 if this amount exceeds €20).

The services called 'intervention fees', billed to paying customers by their banks, come to **several hundreds of millions of euros.**

- Fees that have existed for many years

These fees have existed since: 1969 (direct debit), 1972 (rejection of direct debit

(1) The FCD represents companies in the food trade and those that supply them.
(2) The electronic bill of exchange corresponds to the paperless form of the traditional bill of exchange.
(3) See decision 10-D-28 and the press release of 20 September 2010. This decision was reversed by the Paris Court of Appeal, and an appeal to the Court of Cassation is pending.
(4) See decision 11-D-11 and the press release of 7 July 2011.
(5) These cards represent less than 5% of payment cards in France.
(6) Transfer issued by a bank located abroad to a bank located in France. The inter-bank fee is €1.829 for such an operation. It is paid by the foreign bank (the debtor's bank, unlike all the other operations).
(7) If the commitments procedure is carried through to its conclusion, a decision by the Autorité could be published in the summer and the commitments, made mandatory by this decision, would be applied from 1 October 2012.

> Consult the market test

> Consult all the commitments proposed by the banks

> Consult all the commitments proposed by the FBF

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