« FinTech » sector-specific inquiry: The Autorité de la concurrence issues its opinion

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Faced with significant changes in the payments sector, characterised in particular by the arrival of large digital platforms, the Autorité notes several watch points.

Background

On 13 January 2020, the *Autorité* started proceedings ex officio to assess the competitive situation in the sector of new technologies applied to financial activities and, more specifically, to payment activities. After conducting hearings, sending targeted questionnaires, launching a public consultation and making use of numerous studies and publications, the *Autorité* is now issuing its opinion.

At the end of an in-depth investigation, the *Autorité* considers that technological innovation and changes in regulations have enabled the arrival in the payments sector of new players, FinTechs and BigTechs, which have developed, alongside traditional banking players, innovative payment methods for consumers, and new diversified services (account management, VAT payment assistance for SMEs, etc.).

The *Autorité* notes the important role played by FinTechs in developing new innovative services by seizing all the opportunities created by regulations. It also notes that traditional banking players use different strategies to stay in touch with the most innovative segments of the market: takeovers through acquisitions, equity investments, internal development.

One of the main phenomena highlighted by the *Autorité* in its investigation is the arrival of large BigTechs platforms in the payments sector, with the development of services using the name of the company (Apple Pay, Google Pay, Amazon Pay in particular). This development seems particularly significant, because platform-type actors have considerable advantages to assert: they control ecosystems based on large communities of users, have access to large data sets and have the technical capacity to put them to good use. In addition, by relying, for the realisation of the payment, on the traditional banking actors and the groups of bank cards, the large platforms have the capacity to draw significant profits, without being subjected to the regulatory constraints which weigh on banking players.

The developments described in the investigation have the capacity to upset the competitive balances that have until now been in place. The Autorité highlights in particular the existence of competitive risks linked to the strengthening of the market power of large digital platforms or the locking of consumers into an ecosystem as well as the risk of marginalisation, over time, of traditional banking players.

The arrival of FinTechs and BigTechs in the payments sector

In recent years, thanks to technological innovation and certain European regulatory changes[1], the payments sector has undergone significant development resulting in the entry of non-banking players that can be classified into two categories, “FinTechs” and “BigTechs”:

- “FinTechs” bring together a myriad of entities with varied profiles and economic models: they can be small innovative companies of the “start-up” type, without pre-existing activity, and for some experiencing European or even international growth (such as the German online bank N26 for example) but also well-established players from other sectors of activity and with an already established customer base (such as Orange or Carrefour).

- “BigTechs[2]” bring together the major digital players known as GAFAM (Google, Amazon, Facebook, Apple and Microsoft), present in Europe and the United States in particular, and BATX (Baidu, Alibaba, Tencent and Xiaomi), which have acquired strong positions in Asia and which are starting their development in Europe and the United States.

1 Adoption in particular of the first and second directives on payment services.

2 The term "BigTechs" refers to "*gigantic digital service and data platforms based primarily in the United States or China*".

The emergence of multiple new services, initiation channels and alternative payment methods

Payment initiation and account information services were created in the wake of the Second Payment Services Directive. New payment initiation channels have emerged, including contactless payment by bank card, mobile phone and connected watch, in a context characterised by the consolidation of remote payment on the Internet. Finally, “alternative payment methods” are now recognized by the *Banque de France*, including crypto-assets (digital assets such as Bitcoin), as well as stable coins, the second generation of crypto-assets.

Various initiatives aimed at developing these stable coins have recently emerged, such as that of the Diem Association, in which Facebook participates in particular via its subsidiary Novi, with a view to issuing, as a first step, a stable coin to single currency, the “Diem Dollar”, indexed to the US dollar.

The emergence of these new services, channels and alternative payment methods has been made possible by recent technological developments. While the sector has always been marked by such developments, today it increasingly

relies on cloud computing technologies***[1]*** and is experiencing significant blockchain-based developments***[2]***. These two technologies, although not specific to the payments industry, have the potential to profoundly and sustainably change the way it works. The Autorité thus notes that cloud services have established themselves in a short time as essential services for a large number of companies, particularly in banking and payment services, and are now offered by a small number of large players (Amazon, Google…). With regard to blockchain, a distinction must be made between the use that could be made of it for securing traditional banking jobs or functions, and its use to allow transactions to be carried out in crypto-assets or stable tokens or to participate in the financing of a project (provision of funds in return for tokens), according to the different models being developed by private companies, but also initiatives of public actors and central banks.

Adaptation of traditional banking players

Traditional French banking players are adapting to the new digital situation by investing directly, via equity investments in FinTechs, in order to internalise certain innovative functions offered by the latter, to create synergies or to conquer new markets. They also enter into cooperation or partnership agreements with FinTechs and BigTechs, while continuing to invest intensively in research and development to improve their services.

The agreements concluded between banks and FinTechs allow banks to benefit from the agility and innovations of FinTechs, while the latter benefit from the notoriety of banks, their distribution channels, their customer base, or even their ability to master regulatory constraints. The agreements concluded between banks and BigTechs allow banks to offer their customers certain services that meet consumers' expectations, such as Apple Pay, Google Pay or Samsung Pay. Finally, certain agreements concluded at national level between banking groups have enabled the creation of new players, such as Paylib or Lyf Pay, which offer, in particular, contactless payment services. An agreement at European level, the European Payment Initiative or "EPI", should finally make it possible to create a

pan-European payment system that could connect banks to each other without using current networks, such as Visa and MasterCard.

The competitive analysis carried out by the Autorité

The Autorité has conducted an analysis of the competitive relationship between services provided by new entrants and those offered by traditional banking players (complementarity or substitutability). It also analysed the impact of these developments on the competitive equilibrium of the payments sector and identified the barriers to entry and expansion, as well as the main competitive advantages held by the different categories of players.

The competitive relationship between banking services and new entrants

The payments sector is characterised by two-sided markets and strong dynamism, resulting in the emergence of a multitude of innovative products and services, which can be combined with other services and thus disappear as stand-alone services. If the innovative services offered by new players in niche segments seem rather complementary to the services of traditional players when they are introduced on the market (example: account aggregation services which provide a consolidated view of all of one's bank accounts), this link can rapidly evolve, in particular by integrating these services into the offerings of banks or, conversely, by the development by FinTechs of complete banking offers. This dynamism can make lasting and precise identification of the scope of products or services difficult and thus make the exercise of defining the relevant markets more complex, especially in the context of the prospective analysis of merger transactions.

Barriers to entry and expansion

Numerous regulatory and economic barriers characterise the payments sector. The existence of these barriers makes it possible to understand the way in which FinTechs decide to enter the sector, for example by relying on an approval from

the ACPR whose requirements depend on their activity, or by using distribution networks (for example in business models such as Orange Bank or Nickel account), or by using certain new technologies, including cloud services for IT needs for example. The Autorité notes that there are barriers linked to the access to certain infrastructures and data and that these lead it to highlight certain competitive watch points, set out below.

Competitive advantages of the various players in the sector

- **The historical position of banks**

Banks have several advantages linked to their historic banking monopoly. They have unparalleled experience in controlling compliance with the various applicable regulations and benefit from a strong notoriety as well as a good reputation in terms of security and protection of their customers' data, at a time where practices of certain major digital players in this regard are sometimes debated.

In addition, thanks to their solid customer bases, their volume of activity allows them to have unit transaction processing costs among the lowest in the market. They can also share these costs with those of the other services they offer. Banks also have a good knowledge of the habits of their customers, thanks to the volume and quality of historical data at their disposal, on which certain new entrants depend in order to be able to offer their services. The experience they have acquired over several decades in the design and operational management of payment solutions, as well as their ability to assert their interests with the public authorities, and their financial strength, also constitute major competitive advantages.

- **FinTechs' agility**

Unlike traditional banking players, FinTechs bear lower fixed costs, which constitutes a competitive advantage. Indeed, they bear neither the costs linked to the maintenance of interbank infrastructures, nor those relating to the physical

networks of banking agencies. They are also not linked by the legacy of old and heavy information systems, built on sometimes obsolete technologies. FinTechs can thus demonstrate agility, quickly responding to the specific needs of consumers' daily life and positioning themselves in market niches. In addition, they have expertise in simplifying the "customer journey" which promotes the creation of payment solutions that are easy to use and adapted to the new uses of users of these services.

- **The financial power and user community of BigTechs**

The big digital players have a very large user community, resulting from their "core business" activities, on which they can rely to develop rapidly in the payments sector. In addition, access to large volumes of data concerning the users of their non-financial services, an advantage that they can combine with the mastery of new technologies (artificial intelligence or algorithms, for example), making it possible to process and analyse vast amount of data, gives them the ability to better assess the financial health of their users and to adapt their offers to their preferences or needs.

BigTechs also benefit from considerable financial power, which allows them to make significant investments in various new technologies facilitating the development of innovative payment solutions. Thanks to the technical mastery of their ecosystems, most of which are structured around platforms, in which their payment solutions are integrated, the major digital players are able to offer a "customer journey" whose fluidity and performance are difficult to reproduce by their competitors.

In addition, BigTechs face lower marginal costs than traditional banks, which strengthens their ability to offer “free” payment solutions to consumers. Finally, with of course the specific features of each player, they enjoy a reputation that is likely to encourage the loyalty of certain users.

The watch points noted by the Autorité

Following its analysis of the payments sector, the Autorité noted several watch points.

A risk of strengthening the market power of BigTechs and foreclosure of consumers

Data collected by BigTechs as part of their core business activities could give them a significant advantage in the payments sector and, conversely, the data collected via the payment services they offer could allow them to further strengthen the attractiveness of their respective platforms.

In addition, the opening or closing of effective access to the NFC antenna of smartphones, a technology that makes contactless payment by mobile phone possible, has a real impact on the capacity of players who have developed contactless mobile payment solutions based on NFC technology to be able to offer their services on devices equipped with such an antenna.

In addition, the pre-installation in certain phones of mobile contactless payment solutions, or the implementation of ergonomic shortcuts facilitating access to a given solution, could present risks for competition, for example if they led to the foreclosure of consumers in a given ecosystem, with the associated risks of abuse of a dominant position.

A risk linked to the holding of data by payment service providers who manage accounts

In the context of the implementation of the obligations arising from the Second Directive on Payment Services and Delegated Regulation 2018/389 of the European Commission, it is necessary to be vigilant as to the conditions under which are made available, by the payment service providers' account managers, the payment account data that some FinTechs need to offer their services. This is to ensure that the development of activities carried out by payment initiation and account information service providers is not hampered in particular by restrictions making access to data less fluid or adversely affecting the experience of customers using the services offered by these partners.

Competitive risks associated with the use of blockchain

Competitive risks that may arise from the use of blockchain technology, if not specific to the payments industry, are likely to materialise there. These risks may arise from the rules prohibiting anticompetitive agreements as well as from those prohibiting the abuse of a dominant position and may be attributable in particular to the actor(s) controlling access to the blockchain, or to blockchain users.

The risk of calling into question the universal banking model and marginalisation of traditional banking players

While the evolutions underway in the payments sector lead to an increase in the offer and to improve the quality and diversity of products and services offered at attractive prices to consumers, they are also likely to lead to a profound change in the functioning of the sector. The universal banking model, which makes it possible to provide certain services deemed "unprofitable" if they are offered separately, such as depositing and cashing checks and cash, could thus be called into question.

If it seems unlikely today to envisage a scenario in which FinTechs would emancipate themselves entirely from the banking system by creating their own infrastructures, it is however clear that, without having the experience of banks in the payments sector, BigTechs master, or even control, certain innovative technologies that may, in the future, play a decisive role in the service chain. Their presence in the payments sector could thus be strengthened, in particular through the conclusion of new partnerships with banking players.

There is thus a risk for traditional banking players of being confined in the long term to execution tasks involving significant fixed costs (regulatory charges, physical network, payment infrastructures), while being marginalised in the distribution value chain.

[1] Set of IT solutions and services, operated remotely, for storage, calculation and data management.

[2] Information storage and transmission technology.

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on the sector of new technologies applied to payment activities

See the opinion

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