

ZENTRALER KREDITAUSSCHUSS

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Comments of the Zentraler Kreditausschuss (ZKA) on the "Consultative Paper on Sepa Incentives" published on 13 February 2006 as part of the incentives project launched by the Internal Market Directorate-General of the European Commission

ZKA endorses positive incentives for SEPA realisation

The German banking industry supports the realisation of the Single Euro Payments Area (SEPA) and the provision of corresponding European payment products as of the year 2008. In order to achieve this goal ZKA is proactively engaged in the work conducted by the European Payments Council (EPC) which was founded by the European banking industry as the main decision-making body regarding the creation of SEPA. In line with the priorities highlighted in the Lisbon Agenda, the European banking industry has committed to realise SEPA. In 2004, the EPC confirmed and published the EPC-Roadmap 2004 - 2010. This Roadmap defines the main deliverables that the banking industry needs to provide for the purposes of SEPA realisation.

In order to provide a forward-looking solution for mass payments transactions involving credit transfers, direct debits and card payments, at its most recent EPC plenary meeting held on 8 March 2006, the European banking industry has now adopted the SEPA schemes. The EPC has thus prepared solutions for SEPA within an extremely short period of time. ZKA has made a major contribution towards this.

The various schemes developed by the European banking industry form the basis necessary for the realisation of SEPA. These schemes constitute solutions that are in line with market requirements and which can be implemented in a consistent manner across all participating countries without sacrificing the degree of flexibility necessary for taking account of specific user requirements during product development. ZKA considers the SEPA schemes developed by EPC to constitute the way forward. These schemes reflect the requirements which underpin mass payment services within SEPA.

The consensus which has now been achieved concerning SEPA payment instruments that can be implemented in a consistent manner constitutes a major milestone. This is especially true in view of the fact that – including but not limited to banking customers – EPC's remit involved the challenge of reconciling numerous and sometimes divergent expectations from a wide variety of customer segments. By way of example we should only like to mention the return deadlines for direct debits: here, the expectations on the part of private customers in

their capacity as direct debit payers (debtors) and the expectations of corporate customers as payees of direct debits (creditors) are rather divergent indeed.

When it comes to the development and improvement of products, an adequate reflection of customer needs and customer expectations is part and parcel of the banking industry's own, inherent mission statement along with its core vested interest allowing it to offer competitive products for payment services. In their cooperation in the EPC working groups, the representatives from the more than 25 banking industries have never failed to introduce these interests thus demonstrating that the various Member States feature indeed rather divergent requirements. Hence, the prime task during the design process of the EPC schemes consisted in identifying common ground as regards those customer requirements which may *de facto* be consolidated under the framework of a standard scheme.

As a result of this exercise – if and when not already met by existing payment services – the material customer requirements which had already been identified during this inception stage could be integrated into the SEPA schemes which have now been adopted. In addition to this, already this year, the European banking industry will prepare solutions concerning a number of customer requirements that go beyond the standard schemes.

Requests of specific customer segments regarding the consideration of e-invoicing in the context of payment services primarily affect the underlying bilateral relation between two customers. Hence, the representatives of these customer segments and EPC jointly agreed that the necessary development of corresponding standards does not form part of the scope of the SEPA project and that such task hence does not fall under the EPC remit. This means that, to begin with, said standards will initially be developed in a grassroots initiative by the primary users themselves. Yet, also in future, in order to investigate a potential link between e-invoicing and payments, the dialogue on this topic shall be continued. Whilst the European Commission has apparently identified a cost reduction potential of up to one hundred billion euros in the field of e-invoicing, it fails to substantiate this claim further therefore giving grounds for the belief that there is an absence of any process cost analysis.

ZKA considers the creation of SEPA as an evolutionary and progressive process. The primary goal at hand is the consistent implementation of the SEPA schemes adopted by the EPC on 8 March 2006. In order to offer the new European payments products as of 2008, the banking industry has already initiated the necessary implementation measures.

The ZKA feels that the "*Consultative Paper on SEPA Incentives*" presented for consultation on 13 February 2006 will indeed serve the timely implementation of SEPA; our reservations are owed to the fact that the European Commission expresses clear doubts *vis à vis* the banking industry's self-regulation capabilities and are also triggered by the European Commission's allegations that the new schemes do not provide an adequate reflection of customers' interests. In addition, it seems questionable whether presentations as to the conception of the SEPA schemes, the future administration of the schemes and requests for

adjustment of the infrastructure would be covered by the scope of the European Commission's regulatory mandate.

In line with the European Commission's *better regulation* principles which it has repeatedly endorsed on various occasions, regulatory action shall only be permissible if and when there is a demonstrable case of market failure. To date, this has apparently not taken place. Neither will it be possible to make such a case prior to implementation of the SEPA standards. The mere potential risk of market failure alone is not a sufficient justification for regulatory action. As far as the implementation stage is concerned, there is hence a compelling need to ensure that the fundamental basics and the scope of the SEPA project are not being called into question at its very outset. ZKA therefore issues an emphatic recommendation to the European Commission to return to its previous strategy, i.e. to afford the principle of self-regulation a viable opportunity to prove its potential. ZKA therefore suggests supporting the so far successful process of SEPA realisation by means of positive incentives notably on the part of the European Commission:

Relevance of SEPA procedures

ZKA takes it that the European Commission will continue to support the use of self regulation measures on the part of the European banking industry for the purposes of SEPA realisation and that the European Commission therefore accepts without reservation the relevance and applicability of the SEPA schemes adopted on 8 March 2006. Such relevance of said procedures at the present point in time is imperative for consistent and timely implementation of SEPA realisation as of 2008.

Confirmation of the scope of the SEPA project

In line with the understanding and the definition contained in the EPC Roadmap 2004 – 2010, ZKA asks that neither the European Commission nor the legislator call into question the scope of the SEPA project at short notice in an unexpected manner. Such a development would jeopardise successful implementation of the entire project.

Timely creation of the required legal framework

ZKA emphasises the need for timely creation of a legal framework for payments in the internal market. Hence, there is a need for prioritisation by way of limiting the European Commission's Proposal for a Directive to what is needed for realisation of SEPA. Whilst the law governing credit transfers and card payments already features a sufficient degree of harmonisation, the only remaining area where there is still a genuine need for regulatory action is the forthcoming SEPA direct debit scheme. In order to lend timely support to SEPA realisation, it will be sufficient to adjust those regulatory provisions – for instance concerning authorisation, revocability and refund of direct debits – which are required for a European direct debit scheme.

Consistent communication

In order to ensure the necessary support and momentum for SEPA realisation, ZKA suggests a consistent communication strategy on the part of the European Commission. Beyond this, ZKA would welcome support of the banking industry by the European Commission concerning the communication measures for SEPA realisation.

Early adoption of SEPA instruments by public institutions

In order to promote demand for the new SEPA instruments, ZKA suggests use of these instruments by the public authorities at an early point in time.

Efficient and positive incentives for early adopters

ZKA invites the European Commission to conduct a review into the implementation need for SEPA realisation concerning the various market participants and to develop positive incentives in order to facilitate the forthcoming conversion to the new rules and standards.

Support for cashless payments

ZKA points out that positive incentives for early adoption of SEPA schemes by all market participants would support the use of cashless payment instruments thus adding to considerable cost savings in payment transactions. The new European schemes for credit transfers, direct debits and card payments have been created in order to offer viable substitutes for cash or cheque payments.