EuroCommerce Retail & Wholesale

Position Paper

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Limited Network Exclusions:

Securing a level playing field and harmonising provisions to allow application throughout single market

Merchants value the fact that the Limited Network Exclusion framework allows them to issue specific-purpose instruments to their customers without the involvement of licensed third parties. We are, however, concerned that the exclusion is exploited by providers of meal and social vouchers operating those LNE-business models on top of regulated business models, and not only impact the level playing field, but also causing a double cost structure.

Additionally, merchants require more harmonisation in terms of the application of provisions related to Limited Network Exclusions to secure a functioning internal market.

To allow for fair competition meal vouchers and social vouchers must be treated like other regulated consumer payment instruments:

The social and meal vouchers (whether paper-based or cards) are instruments to help support employees and other target groups with specific funds, commonly promoted by Governments and through tax benefits, with the purpose to be accepted by as many merchants as possible as a common payment instrument.

With the meal vouchers and social vouchers using the Limited Network Exclusion, this happens:

1. The lack of regulation at European level and the country tax regimes promote that these vouchers run in a close loop model (3 party-scheme) which leads to a lack of competition on the acquiring side, causing voucher issuers to misuse the situation and charge an excessive acceptance cost (up to 20 times higher than usual consumer debit card), which makes acceptance loss making for retailers.
2. This unaffordable acceptance cost does not have business justification and it would force merchants to increase the prices for all paying customers. Or it could lead to confrontation with the voucher holders, the employers or public bodies, in case of non-acceptance or surcharging these vouchers at the point of sale (note that surcharging is not allowed in some countries).
3. The retailers believe that these vouchers are good instruments to support specific consumer groups with funds and are keen to continue with the acceptance of these vouchers, but not

at any price. These instruments must be regulated and work in a competitive market with a fair and sustainable acceptance cost for all stakeholders.

4. The limited network exclusion for social and meal vouchers should not be available to issuers, who in many cases have an e-money license anyway, in case these vouchers are operating like general-purpose payments instruments, e.g. based on Mastercard or Visa products. They should be treated like other regulated consumer payment instruments on an open loop ecosystem (i.e. in scope of PSD2/PSR and IFR), regardless of meal vouchers issuers having a commercial agreement with the issuer.

Treat them like other regulated consumer payment instruments would:

1. Promote a regulated and competitive market with an open loop model (4-party schemes) which makes sense within the European competitive payments market, ending the current abusive conditions, namely charging both Interchange++ **and** a direct service fee, for the retailers that accept these vouchers.
2. Increase the merchants' ability to choose acquirers, which would increase the competition and – together with the previous point – would lead to an 80-90% reduction in the acceptance costs, restoring the economic viability for retailers.
3. Increase the number of retailers accepting these vouchers and improve the experience and satisfaction of the voucher holders.
4. Avoid increasing the prices for all paying customers and confrontation at the point of sale caused by non-acceptance or surcharging these vouchers.
5. Make steps towards harmonisation of the different country regulations around meal vouchers, removing this barrier (or territorial supply constraint) of the Single Market.

To strengthen the single market, provisions around the applicability of Limited Network Exclusions must be harmonised across member states

In the current legislative framework, the market has not been provided with sufficiently clear rules around the application of the Limited Network Exclusion. For that reason, the EBA published guidelines in February 2022.

Despite these guidelines, we observe diverging interpretations across member states causing issuers of specific-purpose instruments that fall within the scope of Limited Networks difficulties to maneuver. For example, in a scenario where a merchant has subsidiaries in multiple EU member states and issues specific-purpose payment instruments in one member state, competent authorities in another member state may allow the acceptance of the specific-purpose instrument in their member state whereas competent authorities in yet another member state may not allow its acceptance. Neither PSD2, nor the EBA guidelines clearly address this use case.

Harmonised provisions should allow merchants:

- To have certainty that Limited Network Exclusions are applied across member states in the same way.

- To accept payments initiated specific-purpose instruments issued in another member state but that is part of the same legal ownership structure.

Policy asks:

1) No access to LNE for meal voucher products using 4-party schemes, removing their ability to either charge twice (Interchange++ AND service fees) or circumvent IFR.
2) Harmonised interpretation of the LNEs to ensure products are treated the same way and can be used between member states.

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