

Written evidence submitted by The Payments Association

Introduction

The Payments Association (TPA) welcomes the opportunity to contribute to the Treasury Select Committee's 'Call for Evidence' on the work of the Payment Systems Regulator.

The community's response contained in this paper reflects views expressed by those members who have been interviewed. As TPA's membership includes a wide range of companies from across the payments value chain, and diverse viewpoints across all job roles, this response cannot and does not claim to fully represent the views of all members.

We are grateful to the contributors to this response, which has been drafted by Robert Courtneidge, an advisor to TPA. We hope it advances our collective efforts to ensure that the UK's payments industry continues to be progressive, world-leading and secure, and effective at serving the needs of everyone who pays and gets paid.

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1. High Level Views

Regulatory Overlap

The PSR has a difficult job, being the youngest of the UK regulators and having its scope encroached upon by other regulators who are much more established and experienced. We believe this sometimes leads to compromise and to unnecessary pressure being put on the PSR to defer to its more established colleagues. The most obvious of the overlaps is with the PRA and FCA. However, overlap also occurs with the CMA, the Bank of England and the ICO. The conclusion of many of the members is that cross-regulator collaboration is needed, and better clarity of scope required to avoid future potential conflicts.

Holistic Approach

Under the 'Powers and Procedures Guidance' the PSR has powers under FSBRA to:

- *take regulatory action by way of making directions, and impose requirements (under sections 54, 55 and 58 of FSBRA)*
- *take enforcement action for non-compliance (under sections 71 to 80 of FSBRA)*

It is the former of these powers that enables the PSR to create and develop the ideal framework in which businesses can flourish, both by attracting new businesses into the UK and keeping those already here. We believe it is essential that the PSR boosts competition through encouraging innovation and not by direct intervention wherever possible, because specific interventions can create unintended consequences in an industry as complex as payments. The industry needs proportionate regulation that reflects the size, capacity, experience and nature of the businesses effected by the measures. Furthermore, as well as encouraging competition the PSR should be promoting collaboration to achieve interoperability in this area.

Payments requires an 'outcome based' regulatory framework. For example, when encouraging cost reduction, the regulator cannot just focus on the cards market, because this reduces competition as more players are forced out or consolidate whilst other forms of payment, which are often far more expensive, are ignored. The PSR Annual Plan "why this matters" section states:

"By providing transparency for the services on offer and their prices, our proposed actions are designed to help merchants compare the prices of different card services – and may also help them compare prices for new non-card payment methods."

The last section seems to be an afterthought, but our members from the cards industry believe that the competition from open banking solutions and digital payments is the real competitor now and should play a greater part in the PSR's future work.

Wider Mandate/Increased Capacity

A number of members made the comment that there may either be a capacity issue at the PSR or a scoping issue, in that there is too much in the PSR's scope, so staff are stretched. The solution could be to reduce the number of workstreams and avoid taking on less important work and micro-managing issues/businesses. Another solution could be to upskill staff and close expertise gaps through professional development of selected staff.

Looking to the Future, not the Past

It is always difficult for any regulator to look forwards when the data is only from the past. The recent study, "Card-acquiring market review," looked at historic data up to 2020 and came up with some good findings. Our members generally found that the approach being evidenced with a year of research was proportionate and well delivered.

However, we believe that the PRS's focus on the card market is too narrow and should be much wider in future. Payment by card is only one of many competing ways to pay and is likely to continue to diminish over time as new forms of digital payment and open banking take off. For example, stablecoins and CBDCs are coming into the UK market; the digital Yuan is already available on various apps and could be being used for P2P transactions in the UK without any bank or authority being involved. What will be the impact on the UK payments market of consumers using CBDCs and stablecoins as a means of payment? How do we make the UK the place to run payments businesses in the future and promote this to the world?

2. The PSR's Performance

Member Quotes:

"A pragmatic and experienced Regulator"

"....doing pretty well"

"...engaged, understanding, knowledgeable and doing a good job"

"Their acquiring market review showed a good evidence-based approach which was proportionate and involved a year's worth of data gathering"

"The PSR has a difficult role with multiple overlapping regulators within its scope of work and being the only PSR in the world it has no real way to benchmark itself"

As you can see from the above the overall view is that the PSR is on the right track. It was noted that since the PSR was set up there have been many unforeseen changes in the UK which have had a direct impact on the UK payments infrastructure both from a macro-economic perspective and from a regulatory perspective. The main factors were:

1. Brexit
2. The Pandemic
3. Open Banking
4. Digital Currencies and Stablecoins

In respect of 1) we have seen a loss of fintechs and FIs from the UK as they relocate to the EU. In addition, the inability to get any form of equivalence to enable the continued passporting of payment services across the EU has had a big cost both financially and operationally on many fintechs, as they scrambled to set up costly parallel operations in the EU. Brexit has only one 'silver lining,' the ability to create positive regulatory arbitrage in favour of the UK and UK businesses.

The majority of EU financial services regulation was shaped by the UK and now we have the opportunity to use that skill in legislating to the competitive advantage of the UK for UK businesses. This applies not only to the future of traditional banking and open banking but also to the new era of money in the digital world of crypto assets, stablecoins and CBDCs. The PSR working with HM Treasury and the other regulators can make this happen by ensuring the UK has the most user-friendly laws to encourage businesses to stay and to set up in the UK.

In respect of 2) there has been a great rallying around by our members to deal with an increase in online payments, home working, reduction in the use or need for cash and growth in crypto payments. The government has also made payments and grants available to businesses and individuals alike affected by it. We saw a number of FIs including some of the newer banks working hard and nimbly to get out loans. The PSR can help ensure the competitiveness in this market to help grow these sectors.

In respect of 3) the advent of push payments, secure customer authentication and direct access to accounts by third party providers has enabled fintechs to create innovative payment solutions. This has given some existing smaller payment businesses a disproportionate headache in providing the required access and solutions. The PSR has already been heavily involved in some of the detailed roll-outs in Open Banking and we believe the PSR could promote the UK as the place for best practice in Open Banking.

As a result of the above the PSR's role has had to develop fast and be flexible as different tasks were placed before it. Many have recognised that there has been a positive change recently, noting that the PSR has moved from an initial 'ivory tower' position to becoming far more hands-on and approachable, and willing to listen to and consider the perspectives of industry. The industry wants the PSR to be increasingly collaborative, open and transparent.

However, it has also been noted that in some cases the PSR is taking on work the industry sees as too 'hands on' and detailed/specific, when it would prefer the PSR to look at the big picture. We would like the PSR to take a holistic view from the end-user's perspective.

3. The PSR's Annual Plan for 2022/23

Our members are generally supportive of the PSR's Annual Plan and 5-year Strategy.

Account-to-account retail payments and card fees

We concur with the PSR's view that this will be the competitive space for the future. To simply look at cards as a stand-alone payment system fails to accept that they are only currently the main payment solution. Yes, card fees need to be competitive but not between themselves but in the wider payments marketplace. INTEROPERABILITY is seen as the key aspects of the future to enable fair and transparent competition for the payments market. Old card and banking rails need to work alongside open banking and digital solutions and the PSR should be looking at how to promote this.

Looking into the "potential harm arising from card fees" could be a distraction and has the potential for undue outside influences to overtake the need for real work on the wider payments area. The real win here is not to attack the current industry which has grown through competition but to create an environment in which card payments flourish alongside all new payment forms in a way that offers the best protection and most efficient solution to the end users of the payment systems.

Authorised Push Payment (APP) scams

Members recognised the good work done by the PSR in this area. However, the level of scams is still unacceptably high and hence the work here should not slow down.

Confirmation of Payee (CoP)

This is a great solution that has helped to reduce APP scams, but it has been expensive for smaller FIs to implement. Our members will continue to work with the PSR on this.

The New Payments Architecture

Whilst the NPA is generally seen as a good thing there is a concern that the design was based on blueprint that is 5 years old. It is key that, in order to allow real time interbank to compete with card schemes, the NPA process ensures it enables the most modern architecture and access opportunity. The suggested approach by the PSR in 2022/23 needs to recognise this.

The future of cash

No specific comments on this.

Card-acquiring market review

This is generally seen as a good reflection of the PSR's work, being pragmatic and data focused. The only negatives were that it took too long and could have been better focused on the bigger picture.

Cryptoassets, stablecoins and central bank digital currencies

The key take-away here is interoperability and how the PSR can work with the industry to ensure this.

4. The PSR's Work in Combating Fraud

It was generally seen that the PSR's work on APP scams and CoP has been a great help to the industry in building consumer confidence. However, it was felt that some of the requirements of the industry disproportionately affected the smaller, newer fintechs.

It was believed that fraud should be looked at in a wider context and in respect of data breach issues it is felt that the PSR should work closely with the ICO, as this has greatly hit the payments industry and needs a joined-up approach. One member commented that access to government ID data such as HMRC records could better enable the industry to prevent fraud.

5. The PSR's Approach to Promoting Competition Between Payment Systems, Including Cryptoassets and DLT

Interoperability and creating a good regulatory framework for all players is seen as the utopian future vision here. Our members see a massive growth in alternative payment solutions fired by Open Banking and the growth of digital currencies. This should be a key focus for the new holistic approach that we want to see the PSR to have. The PSR should have the luxury of being able to devote real time into interviewing and gathering data on all the existing and new players in order to create a good strategy to promote the best competition and best solutions for end users and new players, including new potential Financial Market Infrastructure players.

6. How Well the Cards Market is Working

There is no doubt that from an operational perspective it is felt that the cards market is working well in the UK. However, as has been pointed out many times in our members' responses, too much focus on cards can miss the real payments market which is growing outside cards. It is felt that the PSR now has a real opportunity to deliver good change and solutions for the entire UK payments industry with the delivery of good regulation and strategy to promote growth and good competition. And if required, to encourage the arrival of new Financial Market Infrastructure players such as those necessary to enable the widespread adoption of stablecoin issuers..

7. The PSR's Role in Reviewing and Regulating Card Scheme and Interchange Fees

Our members feel the PSR's role in this is important but equally that it should not define the PSR. The PSR's main focus should be on the bigger picture – which, now we are not directly subject to EU laws, has to be how to make the UK a competitive place in which payments businesses can operate and not just focus on card businesses.

One key aspect is interoperability, and ensuring that all market participants play their part to allow different payment methods to work together. As has been seen, changes in interchange fees do not necessarily mean consumers get better pricing: the larger merchants dominate the space and control their fees from the card schemes but it is the smaller merchants that do not have the leverage to get similar pricing that are affected.

New acquirers like Stripe (who through their size also have the ability to leverage their position with the card schemes) have now come in and created more appropriate, easy-to-use solutions for this sector. As new payment methods emerge through open banking and blockchain then the PSR should be evaluating how to ensure all players are competing on a level playing field, not just card payments.

8. Conclusions and Recommendations

The PSR is the only regulator of its kind in the world and hence it is impossible to benchmark its performance. But overall, the industry believes that the PSR is performing its role well and has grown and improved. However, there is always room for improvement and below we summarise some of the key recommendations from our members coming out of this response.

Regulatory Overlap

The PSR must foster good working relations with other relevant regulators to ensure cohesive regulation and no duplication of work or anomalies.

Scope

The PSR's scope should be reviewed to ensure the most efficient and effective prioritisation of work. The PSR should act strategically and avoid work that could be seen as either on the periphery of its scope or not appropriate for it. This should then be properly communicated to the industry.

Staffing

If the scope is clarified and tightened as suggested above, then the current staff should be sufficiently equipped to enable the PSR to perform its role. If necessary, once the scope is clear, the PSR should review its staff against its needs to ensure best fit and utilisation.

Industry Relations and Competition

The PSR should continue to be engaged with the industry, ensure transparent and clear messaging and deliver good competition in the UK whilst making the UK the right place for payments businesses to be located, in competition with other countries. It was felt that the PSR should look beyond just competition and should address the root causes, not simply enforcing and penalising breaches.

Future Looking

Whilst the PSR is praised for the pragmatic way in which it has reviewed the acquiring industry, its vision has to be future-looking, without getting bogged down in historic injustices but learning from them to create the environment for the best future for payments businesses in the UK.

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