

Respondent's basic details

Consultation title:	Autumn 2014 PSR Consultation Paper (CP14/1)
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Rory Maguire	
Name	Signed (original or scanned hard copy)

PSR Consultation Questions – Response template

This Word response template is intended to help stakeholders in responding to the questions set out in our Consultation Paper (PSR CP14/1) and in its Supporting Papers.

If you are claiming commercial confidentiality over specific information included in your response, please be sure to clearly mark this by **yellow highlighting** it. We will assume that all un-marked information is not confidential.

Responses should be emailed to us at PSRconsultations@psr.org.uk in Word and PDF formats by no later than **5pm on Monday 12 January 2015**. Any questions about our consultation can also be sent to PSRconsultations@psr.org.uk.

Thank you in advance for your feedback.

About AIME (www.aimelink.org)

AIME is the UK based trade organisation representing the commercial interests of member companies involved in the interactive media and entertainment Industry - where consumers interact or engage with services across converged media platforms, and pay for those services or content using a variety of micropayment technologies.

We uphold our Code of Ethics and Core Values to create an environment of consumer trust and industry confidence within which our members' commerce can grow. We are committed to furthering the interests of Interactive Media and Entertainment through the regular exchange of information and communication throughout the value chain, effective engagement with regulators and legislators and the presentation of a successful industry image to media.

We are the only UK trade association with membership across all elements of the interactive media and entertainment value chain, which is generally supported by Premium Rate (PRS) billing facilities and other forms of micropayments, and our membership, represents in excess of £650m annual revenue throughput.

AIME currently comprises 84 companies split into five categories, although there is some overlap inside individual Member businesses.

- Fixed Line Networks, Fixed facilitators and merchants
- Broadcasters
- Mobile Networks, Mobile facilitators and merchants
- Professional support companies
- Micropayment entities

Member Input

AIME welcomes the opportunity to respond to the Payment Systems Regulator (PSR) Consultation on "A new regulatory framework for payment systems in the UK".

For many consultations, AIME provides comprehensive input after having received responses from all sections of the value chain, including both small and large market entities. In such cases, responses are collected utilising;

- Online Survey
- One-to-one discussions
- Workshop
- Written responses

Not all Members respond directly to consultations, and not all Members contribute to AIME's respond to consultations. However, experience and surveys have found that Members often rely on AIME to reflect their opinions with a consolidated response.

In the case of this consultation, given staff and time limitations, specific Member input was not sought; however, we remain confident that this response broadly reflects the views of our Membership.

General Comments

AIME welcomes the creation of the Payment Systems Regulator (PSR) and feels that an independent and focussed economic regulator is required for the payment systems market. AIME is in agreement with the vision and the three statutory objectives of the PSR. We note that the AIME Membership almost exclusively represents service-users, and we feel that the interests of our Members will benefit from this new regulatory framework.

The Interactive Media and Entertainment industry is one of the most innovative sectors, often on the cutting edge of technology. Being based on virtual rather than physical products, this sector is well positioned to export UK products and service, and indeed does so. Yet, this same industry utilises few of the main interbank payment systems (either directly or indirectly) that are the subject of this regulation.

As a group, Members feel that the existing interbank payment systems may, in certain circumstances, be unfit for the purpose of facilitating online purchases involving micropayments. Anecdotal responses from a subset of Members revealed the following impressions:

1. UK banks providing indirect access to credit card processing facilities are reported as being inflexible, uninterested and slow to embrace new business models. A number of members report that as a result, they use German (or other European) clearing banks for credit card processing, as they appear to be more interested in supporting this innovative sector.
2. We note that Section A1.42 of the joint OFCOM/PSR study of “Innovation in UK consumer electronic payments” recognised that other European countries (in particular France, Germany, and Sweden) can be more innovative when it comes to the use of payment systems.
3. Existing processes are becoming outdated and inflexible. One Member reported that chargeback requests from their bank are not sent electronically, but transactions are printed out and posted with chargeback requests through Royal Mail. This increases costs, and is prone to errors.
4. This space is regulated by multiple regulatory bodies resulting in differential regulation of payment mechanics that can lead to a lack of technical neutrality and create business uncertainty resulting in reluctance to invest in UK micro-payment innovation.
5. As a result, we encourage the Payment Systems Regulator to focus on encouraging innovation and fostering an environment of collaboration across competitors for the benefit of end users and UK industries.

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Yes. Many members felt that the past approach to payment systems in the UK may not be geared towards innovation in a globally competing environment.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Yes, we support Option 1. Almost exclusively AIME Members represent service-users, whose interests have not been considered under the previous approach, possibly to the detriment of innovation and competition.

Having reviewed the joint OFCOM/PSR study of "Innovation in UK consumer electronic payments" we note (in Section 1.3) an emphasis on major players in the value-chain (banks, card networks, mobile network operators, and handset manufacturers). Although likely unintentional, AIME feels that this emphasis is counter-productive. Traditionally cutting edge innovation starts with small players which then disrupt established major players or technologies. Although the views of established major players should be considered, the Forum must also incorporate the views of those likely to create disruptive industries. Organisations such as AIME are well positioned to represent the views of innovative elements.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

We note that Supporting Paper 2 never mentioned SMEs (small to medium sized enterprises) and yet in the UK there are 5.2 million SMEs employing 25.2 million people with a combined

turnover of £3,500 billion.

While AIME supports the formation and design of the Payments Strategy Forum, we feel it is critical that the views of SMEs are embraced and represented explicitly and that perhaps the views of the Interactive Media and Entertainment sector itself in particular should be represented as this sector disproportionately drives digital services innovation and disruption.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

AIME supports the indicative model but notes the comment in Supporting Paper 2, Paragraph 2.110 that “Strategic priorities of the Operators should inform the Forum’s strategic objective ...”. While this assertion is true, it should not be used to sideline the views of industry participants – especially service-users and should not itself stifle innovation.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

AIME acknowledges the infrastructure-related matters listed in Paragraph 2.113 but note that there is little obviously disruptive innovation.

The payment services industry needs to develop forms of end user identification and authorisation that is more suited to the micropayments industries that provides for end user spontaneity without recitation of long sequences of numbers and is more suited to small screen environments in use by digital consumers. Current methods are cumbersome and error prone and are also unfriendly towards consumers with specific disabilities.

Modern technology should be brought to bear to make both identification and authorisation easier for users, while at the same time retaining essential security.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

AIME believes that service-user involvement needs to increase dramatically with innovation

driven by future capabilities rather than short term return on investment. Governance and ownership changes may play a part in supporting this model, but we caution against increasing regulatory burden or insecurity that could act against innovation drivers.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Please see our answer to SP3-Q1

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP3-Q1

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP3-Q1

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Please see our answer to SP3-Q1

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP3-Q1

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of

our proposed direction?

Please see our answer to SP3-Q1

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP3-Q1

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper and Supporting Paper 4: Access to payment systems for more details*)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

While we believe that there are significant issues currently with gaining (indirect) access to payment systems and would welcome improvement, at this time AIME does not have strong views in this area.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Please see our answer to SP4-Q1

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP4-Q1

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Please see our answer to SP4-Q1

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

AIME does not have strong views in this area at this time.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and

dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

While the tools should empower the regulatory model, it is important to understand that one of the drivers of the PSR is to create an environment for innovation in payment systems to be realised which would require careful exercise of these powers where business practices are demonstrably suppressing innovation and collaboration. A regulator can also aid innovation and collaboration by assisting entities to overcome the fears of the application of Competition Law.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Please see our answer to SP6-Q1

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Please see our answer to SP6-Q1

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Please see our answer to SP6-Q1

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Please see our answer to SP6-Q1

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

Please see our answer to SP6-Q1

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Please see our answer to SP6-Q1

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Please see our answer to SP6-Q1