

AIME White Paper Summary

Proposed changes to the European Payment Services Directive

1. Introduction

AIME has written a white paper AIME to stimulate discussions between AIME, other industry bodies, regulators and UK government detailing the potential effect on the telecommunications based micropayments and related service industries that may occur with the proposed changes to the European Commissions Payment Services Directive (PSD).

Telecommunications based payment services are exempted (under certain conditions) from the requirements of PSD.

The proposed PSD wording included changes to the exemption to narrow scope and in doing so may have a significant effect on the current fixed line and mobile premium rate services market.

The proposed PSD is located here:

http://ec.europa.eu/internal_market/payments/docs/framework/130724_proposal-revised-psd2_en.pdf

The current PSD (issued 2007) is located here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:319:0001:0036:EN:PDF>

The full AIME white paper is located here:

http://www.aimelink.org/initiatives/PSD_Whitepaper.aspx

This document is a summary of AIMEs concerns and proposals.

2. Current Payment Services Directive

The current Payment Service Directive (PSDv1) potentially captured mobile and fixed line networks that were operating services in conjunction with third parties and providing payments for them from the consumers telecoms account to the third party.

PSDv1 defined that companies providing Payment Services had to apply to their local financial authority (FSA in the UK at the time) and register as a Payment Service Provider (PSP) unless they were already banking or emoney licensees. PSP's are subject to prudential regulation and need to fulfil other conditions related to capital reserves etc.

PSDv1 provided an exemption for Telecommunication Providers (and others) from the requirement to be authorised and registered as a Payment Service Provider as long as certain conditions were met, namely that they "added value" and did not act as pure payment intermediary between the consumer and the party receiving the payment.

In the UK this allowed the existing mobile and fixed line “charge to bill” services to continue under the exemption.

If PSDv1 had not provided the exemption, it would have been unlikely that telecommunication operators would make the required investment in the requirements to operate as a PSP and services that consumers currently enjoy would be unavailable.

The exemption is detailed in Article 3(l) and reads:

payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;

3. EU Proposed PSD wording

As part of the EU proposals to update PSDv1, the proposed new text for Article 3(l) is narrower than the current exemption and reads:

“(l) payment transactions carried out by a provider of electronic communications networks or services where the transaction is provided for a subscriber to the network or service and for purchase of digital content as ancillary services to electronic communications services, regardless of the device used for the purchase or consumption of the content, provided that the value of any single payment transaction does not exceed EUR 50 and the combined value of payment transactions does not exceed EUR 200 in any billing month.”

Although there was limited exploitation of the current exemption, EU wishes to narrow scope, set thresholds and provide legal certainty.

4. AIME concerns on proposed wording

AIME is concerned that the new wording, due to interpretation and the desire to avoid the risk of operating PSP type services without registration may have a three-fold effect on the existing market.

- a) The proposed wording implies that the digital content must be “as ancillary services to electronic communications services” although could also be interpreted as meaning that the purchase must be ancillary. With this ambiguity, approximately 50% of the current range of premium rate services may have to be removed from all telecommunications networks in the UK as they could be deemed to be non-ancillary. Charitable donations and TV voting are very good examples, but numerous other examples also exist.
- b) The definition of “digital content” may exclude voice services across fixed and mobile voice circuits as well as certain services where the delivery is not strictly digital (e.g. chat, gambling, ticketing, directory enquiries etc).
- c) The maximum aggregate limit of EUR 200 will present does present issues as i) a small number of consumers exceed this value quite happily in services such as

interactive chat and online games and ii) to impose this limit, network operators would have to make significant capital investments in solutions to limit spend per consumer specifically for third party services.

5. Financial Impact

AIME estimates that at least 50% of mobile services and 30% of fixed line services are not ancillary to the originating network operators business. This may attribute to an annual loss of £229m to UK industries, including job losses, taxation losses and loss of services to consumers

We believe this is not the desired effect of the tightening up of the exemption wording.

6. Proposed alternative wording

For discussion purposes, AIME has proposed in its white paper an alternative and more comprehensive wording without significantly changing the proposed wording;

3(l) payment transactions carried out by a provider of electronic communication networks or services where the transaction is provided for a subscriber to the network or service and is for purchase of digital content, or electronic communication services and where the payment service is provided as an ancillary service to the electronic communications service, regardless of the device used for the purchase or consumption of the content, provided that the value of any single payment transaction does not exceed EUR 50;

7. Next Steps

AIME is closely liaising with other Industry stakeholders including PhonepayPlus and the Mobile Broadband Group (UK Mobile Network Operators regulatory representative).

AIME has submitted its white paper to the Treasury and is organising a meeting to discuss how the UK government should address these potential issues with the EU government.

AIME is also organising a meeting with the FCA to keep them informed of our concerns for our members.

We have also requested input from members on the services that they currently supply that may be affected to support our financial analysis. An initial list is in appendix 1 of his document and in the detailed White Paper. We have kept this at high level to avoid complexity in our submission.

8. Further Information

AIME will keep its members up to date with the progress we are making with the relevant government bodies through our usual communications channels.

To discuss this document or the White Paper please email Fleur Bowles - fleur@aimelink.org.

Appendix 1: Existing services that may be affected.

Non Ancillary	Non Digital content
Charity donations	Charity donations
TV Voting	TV Voting
Competitions	Competitions
International Air time	International Air time
Gaming credits (e.g. world of Warcraft)	Gaming credits (e.g. World of Warcraft)
Virtual currencies (e.g. Facebook Credits. Skype Credit)	Virtual currencies (e.g. Facebook Credits. Skype Credit)
Wi-Fi hotspot Access	Wi-Fi hotspot Access
Internet chat	Internet chat
Internet Dating	Internet Dating
Internet Games	
Advertising access	
Online publishing paywalls	
Red Button Services	
Video on Demand	
Gambling, betting, sweepstakes and lottery	
DVD Unlocking	
Virtual Gifts or items (e.g. Farmville)	