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Competition in Mobile Payment Services – Note by Switzerland

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Antonio CAPOBIANCO
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08

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Switzerland

Competition in Mobile Payment Services

1. In Switzerland, around 30% of payments are made using a mobile device, making mobile payments the **most common payment method** today.¹ With TWINT, Switzerland has a strong **national provider** of mobile payment services competing with the mobile payment solutions of major international technology companies such as Apple, Samsung and Google. Since the creation of this company, the Swiss Competition Commission (COMCO) has been involved in the development of the Swiss mobile payment market through several proceedings. In all of its proceedings, COMCO has focused on market openness and rapid intervention against restrictions.

1. Merger procedure PostFinance AG/SIX Payment Services AG/TWINT AG: establishment of a "national champion"² (2016)

2. In 2015, Two competing payment applications were launched: the "Paymit" scheme supported by the banks on the one hand and the "TWINT" scheme owned by PostFinance on the other. On 27 May 2016, a press release was published with the following title: "Joint mobile payment solution for Switzerland agreed". It stated, inter alia: "The five largest Swiss banks Credit Suisse, PostFinance, Raiffeisen, UBS and ZKB, the financial infrastructure service provider SIX, and the retailers Coop and Migros as well as Swisscom have agreed on a joint solution for a Swiss mobile payment system. It combines the strengths of Paymit and TWINT and offers a platform-independent, competitive and customer-friendly solution for all market participants".³ The press reported at the time that the merger was taking place in face of threatening competition from international "tech giants" such as Apple, Google and Samsung.⁴

3. The merger was notified to COMCO on 9 August 2016 and approved on 8 September 2016 following a Phase I review. As part of this review, COMCO considered mobile payment services for the first time.

4. TWINT is not a wallet solution where a card-based means of payment such as a debit or credit card would have to be deposited (e.g. Apple Pay), but an independent **payment scheme** where the payment is debited directly from the user's account. TWINT is structured as a four-party system with multiple issuers and acquirers.

5. Due to the early stage of the market, the market definition was based on the hypothesis that a relevant market for **peer-to-merchant (P2M) mobile payments** can be

¹ Sandro Graf/Nina Heim/Marcel Stadelmann/Tobias Trütsch, *Swiss Payment Monitor 2025 – Wie bezahlt die Schweiz? Ausgabe 1/2025*; available at 'www.swisspaymentmonitor.ch', p. 6.

² RPW 2016/4, p. 1062 et seq., available at 'www.weko.admin.ch' > Praxis > Recht und Politik des Wettbewerbs (RPW).

³ Media release dated 27.5.2016, available at 'www.raiffeisen.ch/content/dam/www/rch/ueberuns/medien/medienmitteilungen/Medienmitteilung-MobilePayment.pdf'.

⁴ Handelszeitung of 27.5.2016, *Twint und Paymit gemeinsam gegen die Tech-Giganten*, 'www.handelszeitung.ch/unternehmen/twint-und-paymit-gemeinsam-gegen-die-tech-giganten'.

defined.⁵ Further segmentation, e.g. between wallet solutions and payment schemes or according to sales channel (stationary/online), was dispensed with. Geographically, a national market was assumed due to the national nature of user funding (national card/national bank account).

6. As TWINT and Paymit were still at an **early stage** in the P2M payments market (Paymit was even still in the pilot phase), the merger resulted in extremely **low market share additions**. The market entry of Apple Pay in July 2016 and the fact that Apple Pay as a wallet solution could be used immediately at all NFC-enabled terminals were taken into account, while TWINT as a scheme first had to build up its merchant network first (TWINT could be used at around 5,000 points of sale at the time of the merger, Paymit at 270) and payments had to be made via Bluetooth beacons or QR codes. In a survey conducted by COMCO, the major retailers and the merchant association responded positively to the merger, stating that they expected the merger to **increase competition** and reduce costs for retailers.

7. COMCO also examined the **vertical and conglomerate effects** of the proposed merger and found that the involvement of banks, the financial infrastructure provider SIX and PostFinance, which are at different stages of the value chain, **could potentially lead to market foreclosure and discrimination** against market participants. There was also a risk that powerful players in one market (e.g. the former SIX in acquiring) could extend their position to the mobile payments market. This risk was also raised by the competitors questioned (Apple, Google, Samsung).

8. In order to address market foreclosure concerns, **commitments** have been given by all parties involved in TWINT. These are as follows:

- **Open access** to TWINT at all levels (scheme, issuing, acquiring).
- **Non-discrimination** (in particular, no preferential treatment for companies participating in TWINT).
- **No exclusivity**.

9. COMCO concluded that the merger was unlikely to create or strengthen a dominant position in the market for P2M mobile payments within a time horizon of 2-3 years and, taking into account the commitments made by TWINT, **approved the merger**.

2. Preliminary investigation TWINT/Apple Pay⁶ : Rapid removal of a technical obstacle to TWINT by Apple (2017/2018)

10. In June 2017, TWINT filed a complaint against Apple for **abuse of a dominant market position** by Apple.

11. Payment with the TWINT app at the point of sale (POS) is made by scanning a QR code displayed on the payment terminal. It was complained that when attempting to scan the QR code, Apple Pay automatically opens as soon as the device comes within range of the payment terminal's NFC antenna, thereby **interrupting the payment process** initiated by the TWINT app. This practice, it was argued, constituted unlawful discrimination

⁵ Peer-to-peer (P2P) payments, which are also possible with TWINT, were not investigated further, as no market share additions were made and it was (and still is) a free additional service.

⁶ RPW 2019/3a, p. 574 et seq., *TWINT/Apple*; also directly available at 'www.weko.admin.ch' > Practice > Decisions > TWINT/Apple: Final report of 12.3.2019

between trading partners, an unlawful limitation of sales and technical development, and an unlawful tying practice. TWINT requested that interim measures be taken to remove this restriction.

12. In December 2017, the Secretariat conducted an assessment in the presence of TWINT and Apple. Several iOS devices and payment terminals were used to test whether payment transactions with TWINT were, in fact, in conflict with Apple Pay. COMCO concluded that TWINT's claims were correct and that Apple Pay was interrupting the payment process with TWINT, especially with newer terminals with stronger NFC antennas. The agency then investigated whether the issue could be resolved by using a **suppression command** for Apple Pay, which already existed for other apps. However, Apple argued that allowing the suppression option to work could interfere with the use of Apple Pay if the user also had their TWINT app open. However, the Authority's investigation found that the activation of the suppression feature could be limited to the short period of time between the start of the QR scan in the TWINT app and the completion of the payment. After Apple refused to disclose the suppression command despite these findings, the COMCO Secretariat sent a **statement of objections** to the parties in October 2018 regarding the ordering of **interim measures against Apple**. As a result, in December 2018, Apple agreed to provide TWINT with the suppression command to TWINT as part of **commitments**. Due to the resolution to the problem in the market, the authority decided not to continue the procedure to impose any sanctions.

13. In its statement of objections for interim measures, COMCO made the following arguments:

- She explained that mobile payment applications have the characteristics of **two-sided markets**, with users on one side and merchants on the other. There are **indirect network effects**: The more participants on the other side of the market are connected, the more attractive the mobile payment app becomes.
- The specific **market definition** was carried out from the perspective of the **developers of mobile payment applications**, i.e. not from the perspective of either of the two market players mentioned. However, their behaviour is indirectly relevant to the question of substitutability. In contrast to the end user, who typically uses only one platform to download mobile payment apps ("single homing"), it was necessary to clarify the importance of the different platforms for the developers of mobile payment apps in Switzerland. The clarifications showed that for the majority of developers, iOS and Android are two relevant platforms that **complement** each other and cannot be substituted due to their size and importance. It was found that in Switzerland, unlike in the EU, the market share of iOS in terms of devices was between 45% and 55%, with these users also using mobile payment apps more frequently than Android users, so that the market share of iOS among users of mobile payment apps increased to 60-70%. The Authority therefore considered that there were indications of a separate **market for access to the integrated iOS platform for developers of mobile payment applications**.
- There are therefore indications that Apple has a **dominant position** as it completely controls access to the iOS platform through its App Store. Access via alternative app stores was not an alternative to Apple's App Store for developers of mobile payment applications. Even if the market is further defined to include the Android platform, there are indications of dominance due to Apple's high market share.
- With regard to the **abusive conduct**, COMCO investigated whether Apple used its potentially dominant market position vis-à-vis developers of mobile payment applications to favour its own mobile payment solution Apple Pay over its

competitors in the mobile payment market. The authority concluded that there were indications that the conditions of the **limitation of sales and technical development** were met. The interruption of the TWINT payment process by automatically opening Apple Pay means that (1) **user confidence** in the security and reliable functioning of TWINT is undermined and users no longer use the best payment application, and (2) there is **no longer "competition on the merits"** with regard to the technically best payment application.

- No **legitimate business reasons** were apparent on the part of Apple, as the suppression of Apple Pay can technically be limited to the duration of the payment process initiated by the customer with the TWINT app, so that no interruption of payment processes with Apple Pay could occur. In addition, Apple had already released the suppression block for the "PayPal Here" payment application, which is not available in Switzerland.

3. "Apple Pay boycott" investigation: suspected boycott of Apple Pay by the Swiss issuers involved in TWINT (2018-ongoing)

14. On 13 November 2018, the COMCO opened an investigation against several Swiss financial institutions. The subject of this investigation is a **suspected boycott of mobile payment solutions of international providers** such as Apple Pay and Samsung Pay. The investigation aims to clarify whether several Swiss financial institutions have entered into an agreement to boycott mobile payment solutions from international providers such as Apple Pay and Samsung Pay. A number of Swiss financial institutions are suspected of having jointly agreed not to activate their credit cards for use with Apple Pay and Samsung Pay, in order to protect TWINT, their own Swiss payment solution. The investigation has been launched against Aduno Holding, Credit Suisse, PostFinance, Swisscard AECS and UBS Switzerland. COMCO carried out dawn raids at the premises of the target companies.⁷

15. As the investigation is still ongoing, it is not possible to say at this stage whether the suspicions have been confirmed. However, it can be stated that all the companies under investigation are directly or indirectly **linked to TWINT**: PostFinance, Credit Suisse and UBS were shareholders in TWINT. Swisscard AECS was a joint venture of American Express and Credit Suisse. Aduno was the issuer of all cantonal banks and the third largest Swiss banking group at the time, Raiffeisen. Raiffeisen and the two large cantonal banks of the cantons of Zurich and Vaud were also shareholders in TWINT. The addressees of the investigation had very high market shares at the time of the opening of the investigation..

16. At the beginning of the investigation, none of the addressees had authorised their credit cards for Apple Pay or Samsung Pay. Only two smaller issuers with no direct or indirect involvement in TWINT (Cembra Money Bank and Corner Card) had enabled their credit cards. Following the opening of the investigation, all addressees of the investigation successively enabled their cards for Apple Pay and Samsung Pay.

4. Current informal procedure regarding NFC for Apple devices (2025)

17. An informal procedure is currently underway regarding access for app developers to NFC on Apple devices. Following Apple's commitments in the EU and various

⁷ Media release dated 15.11.2018, available at 'www.news.admin.ch/en/nsb?id=72928'.

approaches from app developers, COMCO contacted Apple to clarify whether Apple would apply the same conditions to the Swiss market (access to NFC via Host Card Emulation [HCE]). Apple informed COMCO that the European commitments were also made in the context of the DMA and therefore did not apply to Switzerland. However, Apple has added Switzerland to the list of countries where NFC access via **NFC via the Secure Element (SE) platform** is possible.⁸ COMCO is monitoring how this solution is implemented in practice.

5. Proceedings concerning credit and debit card interchange fees: specific fees for mobile payments (2017-ongoing)

18. COMCO's first decision to limit the level of **credit card interchange fees** under the Cartel Act was issued in 2005. COMCO decided to set a maximum average fee and left the card industry free to set industry- and transaction-specific interchange fees.⁹ Mobile payments were not an issue at that time. While the level of the average fee has been reduced several times over the years (currently 0.44 %), the solution has otherwise remained unchanged.¹⁰

19. For **debit cards**, Switzerland had a dominant system with Maestro, which historically operated without interchange fees (or with a zero interchange fee). To allow VPAY to enter the market, COMCO granted Visa an average interchange fee of CHF 0.20 per transaction in 2009, limited in time (maximum 3 years) and in market share (maximum 15%).

20. This was followed in 2017 by Mastercard's request to allow an interchange fee for its debit cards (Maestro and Debit Mastercard) for payments on the internet (e-commerce) and with mobile devices (m-commerce).¹¹ COMCO then allowed **higher interchange fees** of 0.31% **for e- and m-commerce** for these debit cards for 5 years, with a subsequent reduction to 0.2%. The following arguments were decisive for this decision:

- If the issuers in e- and m-commerce receive no (for Maestro) or only low interchange fees for debit cards, they will not release them for Internet payments and wallet deposits, as this would **cannibalise their credit card revenues**.
- Without interchange fees, issuers would not make the necessary **investments** in digital payments with debit cards.
- The interchange fee for electronic payments with debit cards was set to represent the **cheapest means of payment** (cheaper than, for example, a payment by credit card or PayPal). In other words, a different benchmark was used than for face-to-face payments.

21. The same conditions were also granted to Visa for its debit card products in 2017.¹²

22. In September 2022, COMCO initiated a new procedure with Visa and Mastercard with the aim of finding an amicable solution for setting a permanent interchange fee for

⁸ <https://developer.apple.com/support/nfc-se-platform/>

⁹ RPW 2006/1, p. 65 et seq., *Credit Cards - Interchange Fees*.

¹⁰ RPW 2015/2, p. 165 et seq., *Credit Cards Domestic Interchange Fees II*.

¹¹ RPW 2017/4, p. 542 et seq., *Mastercard Secure Digital Debit Interchange Fee (SDDIF)*.

¹² RPW 2017/4, p. 559 et seq., *DMIF for the Visa V PAY debit card system*.

debit cards in present business (Card Present / CP) and distance business (Card not Present / CnP). A settlement was quickly reached with Mastercard. This includes a CP interchange fee of 0.12%, which is low by European standards, and in return a **higher CnP interchange fee** of 0.28% was approved.¹³ In line with the practice from 2017, payments with deposited cards (m-commerce) are considered as CnP payments for which the higher rate can be applied.

23. The fact that the higher CnP rate applies to mobile payments has been criticised by issuers and Visa, among others. In its decision COMCO gave the following reasons for the different rates:

- **Limited importance** of payments made with debit cards stored in wallets at the point of sale (mobile payments are currently more often made with TWINT or stored credit cards). COMCO considered that only around 7% of debit card payments were mobile transactions with a stored debit card.
- The Mastercard solution provides for an **adjustment** to the 0.28% CnP rate if more than 30% of transactions with Mastercard debit cards at the point of sale are made using mobile devices.
- Mobile payments incur **additional costs** for issuers (e.g. Apple fees, higher fraud risk, tokenisation costs), so a rate that is too low could result in issuers not approving debit cards for wallet deposits.

24. The investigation against Visa in the same matter is currently still ongoing, and the issue of higher interchange fees for payments made with debit cards stored in wallets is also being investigated by the COMCO. The investigation is expected to be completed in the summer.

6. Possible complains about TWINT fees

25. It has been reported in the press that trade associations are considering filing a complaint with the COMCO against TWINT because they believe that TWINT currently has a dominant market position and charges excessive fees. They argue that a system of bilateral interchange fees leads to a lack of transparency and possible discrimination.¹⁴

7. Key Findings

26. COMCO's **previous practice on two-sided markets and multi-sided platforms**, particularly in the area of card-based payment transactions, provided useful tools for the antitrust assessment of mobile payment services.

27. The market for mobile payments is strongly influenced by **players from traditionally different sectors**: on the one hand, the financial sector (i.e. all existing participants in card-based payment transactions, such as card schemes, banks, issuers and acquirers) and, on the other hand, the technology giants as owners of the platforms installed on mobile devices (iOS, Android, Microsoft, etc.). A particular challenge in antitrust

¹³ RPW 2024/4, 1085 et seq., *Suggestions for CnP transactions with Mastercard debit cards*; RPW 2024/4, p. 1285 et seq., *Interchange fees for Mastercard debit cards*.

¹⁴ ['www.20min.ch/story/intransparente-gebuehren-fall-twint-anzeige-bei-weko-liegt-schon-griffbereit-103320314'](https://www.20min.ch/story/intransparente-gebuehren-fall-twint-anzeige-bei-weko-liegt-schon-griffbereit-103320314).

proceedings is the fact that several of these players have **strong, if not dominant, positions** in their traditional markets and may be able to block each other.

28. Particular attention must be paid to economies of scale, network effects, lock-in effects and tipping points. Antitrust intervention must therefore take place **at an early stage**. COMCO has had good experience with **informal procedures** and has often found solutions through mutually acceptable agreements. However, it has not hesitated to use **interim measures** when necessary. In the case mentioned above, Apple avoided the adoption of interim measures by giving in.

29. The merger to create a national champion could not be prohibited at the time. The merger has had a positive impact on competition in that Switzerland now has an important **national alternative** to the mobile payment apps from Apple, Samsung and Google. It is very popular with users and has a significantly higher market share than Apple Pay, Samsung Pay or Google Pay.¹⁵

30. Conversely, the commitments made at the time of the merger (openness of the system) have proven to be insufficient to ensure the openness of the market to competing systems. The participation of the major national issuers in TWINT reduced their **incentives to cooperate** with alternative mobile payment services. Whether they even agreed on a boycott is still under investigation.

31. It should also be noted that any intervention in potentially excessive fee structures must take into account the **impact on neighbouring markets**. For example, if interchange fees for mobile payments are too low, the cards concerned may no longer be accepted for wallet deposits and mobile payments may be reserved for more expensive cards or other proprietary solutions.

32. Finally, it should be noted that **proceedings against large technology companies** without a DMA and purely on the basis of traditional antitrust law and its case-by-case abuse procedures are very resource-intensive and time-consuming. The question is whether such ex-post procedures are still effective and capable of restoring effective competition in areas where companies' strong market positions appear to be effectively unchallengeable for years to come. It is precisely in digital markets – which are particularly prone to market concentration due to network effects, economies of scale and lock-in effects ("winner takes it all") – that traditional antitrust instruments reach their limits. In Switzerland, for example, the hurdles for prosecuting abusive pricing under antitrust law are very high.

33. In conclusion, the Swiss mobile payments market is developing well, thanks in part to COMCO's various **successful interventions**.

¹⁵ TWINT had over 5 million users in 2024, who triggered around 773 million transactions, www.twint.ch/press/773-millionen-twint-transaktionen-mehr-souveraenitaet-beim-bezahlen-fuer-nutzende-und-handel/ '.