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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
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**Competition in Mobile Payment Services – Note by Germany**

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## Germany

### 1. Introduction

1. The trend towards cashless payment continues. Innovative payment services, in particular digital wallets containing the user's preferred payment method, are becoming more important. In e-commerce, new payment service providers such as PayPal now have a strong foothold. With the widespread use of mobile devices, it is possible to carry one's payment cards in a digital wallet and use them at the Point of Sale. Mobile payments via mobile devices are therefore becoming increasingly popular. While this development supports the innovation of new and lower-priced payment services as alternatives to the established payment solutions, the specific characteristics of the online/mobile payment sector with its multisided markets and their strong network effects and potentially high switching costs also raise competition concerns. Against this background, it is not surprising that the market is seeing a growing presence of payment processing services offered by large digital companies.

### 2. Competition dynamics and the effects of surcharging

2. Merchants usually offer their customers a variety of different payment methods, as some customers would choose to shop elsewhere if they cannot use their preferred payment method at the merchant's store or web shop.

3. As scale and scope economies are very present in the market for mobile/online payment services, services offered by large digital companies such as Amazon (Amazon Pay) or PayPal, in particular, are becoming "must-have" options for merchants.

4. This effect is strong enough for merchants to find themselves compelled to offer at least the most popular payment methods, even if the merchant fee for a given payment method is relatively high. In this context, it is noteworthy that the fees merchants have to pay for accepting a payment (so-called "merchant service charge") differ significantly across payment methods. The most expensive payment method may cost merchants up to ten times more than the cheapest method.

5. If a merchant uses surcharging, customers will take the cost differences into account when choosing which payment method to use for a specific transaction. Other aspects relevant to the customers' decision may include, for example, the convenience of using a given payment method, security, privacy and benefits such as guarantees, insurances or rewards.

6. It is important to note that already the mere option for merchants to use surcharging will help to keep payment fees down. This is due to the fact that the option to use surcharging places a pricing constraint on payment schemes, even if most merchants decide to refrain from surcharging. Regulatory interventions in the form of interchange fee caps cannot fully substitute for the disciplinary effects of optional surcharging. Interchange fee caps only affect some payment schemes, and the relevant providers may decide to raise the price of other components of the merchant service charge such as the scheme fees. The possibility for merchants to offer discounts when using a low-cost payment method is also not a substitute for optional surcharging. As selecting a payment method is the very last step in the shopping process after the customer has already decided to make the purchase, merchants are left with very little incentive to offer such a "last-minute" discount.

7. In the domain of mobile payment services, also ensuring unrestricted access to essential hardware components is of critical importance. Therefore, the Digital Markets Act (DMA) explicitly covers not only payment services but also the technical services supporting them. For these services the DMA prohibits gatekeepers from engaging in bundling practices with core platform services. This regulatory framework thus represents a pro-competitive instrument designed to safeguard openness and contestability also in markets for mobile payment systems.

### 3. Competition enforcement

#### 3.1. Antitrust – Paypal

8. The Bundeskartellamt has initiated a proceeding against PayPal (Europe) on account of practices possibly foreclosing competitors and restricting price competition<sup>1</sup>. The proceeding deals with PayPal’s “Rules about surcharging” and the “Presentation of PayPal” set out in its user agreement applicable in Germany. Under these terms and conditions merchants are not allowed to offer their goods and services at lower prices if customers choose to use a payment method that is cheaper than PayPal. In addition, merchants are not allowed to express a preference for payment methods other than PayPal or, for example, make their use more convenient for customers.

9. The fees incurred by merchants for the use of a payment service differ considerably depending on the payment scheme. Merchants usually include these fees in the product prices so that ultimately it is the consumers who bear the costs incurred for the use of the payment services. According to market studies, PayPal is not only the leading online payment scheme in Germany, but also one of the most expensive online payment services.

10. As part of its investigation, the Bundeskartellamt is assessing the extent of PayPal’s market power and in how far online sellers depend on offering PayPal as a payment method (“must-have”). If merchants are prevented from taking into account the differences in costs of various payment methods by imposing surcharges or granting discounts, it is more difficult for other payment schemes to compete successfully in terms of price and quality or to enter the market in the first place.

11. The antitrust proceeding is based on the prohibition of abuse of a dominant position (Article 102 TFEU, Section 19 of the German Competition Act (GWB)) and the prohibition of abuse of a position of relative or superior market power (Section 20 GWB). In addition, PayPal’s conduct might also violate the prohibition of anti-competitive agreements (Article 101 TFEU, Section 1 GWB). The present case thus also ties in with various proceedings already conducted by competition authorities against other online platforms due to parity clauses. The proceeding is ongoing.

12. To prevent excessive payment method surcharges for consumers, Article 62(4) of the European Payment Services Directive (“PSD”) prohibits merchants from requesting separate charges for certain payment methods which are deemed to involve comparatively low costs. According to a judgment handed down by the German Federal Court of Justice on 25 March 2021 (I-ZR 203/19), PayPal does not fall under the scope of this provision.

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<sup>1</sup> See press release of 23 January 2023, available at [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/23\\_01\\_2023\\_PayPal.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/23_01_2023_PayPal.html).

## 3.2. Antitrust – Proceedings concerning the German banking industry

### 3.2.1. GiroAPI

13. “GiroAPI”, which started in early 2025, is a project of the German Banking Industry Committee. It offers an additional service bundle for payment services and uses technical interfaces which were created to implement the PSD for additional standardised open finance services. GiroAPI is organised as an open scheme which allows the participation of non-banking entities on a non-discriminatory and non-exclusionary basis. The Bundeskartellamt did not voice any objections to the project but reserved its right to open an antitrust investigation at a later stage, depending on the development of the market presence of the scheme and in case of future complaints.

### 3.2.2. Sofortüberweisung

14. In 2016, the Bundeskartellamt addressed the German banking industry’s terms and conditions for online banking.<sup>2</sup> The rules in question prevented banking customers from using their personal security features PIN and TAN in non-bank payment systems to allow third-party systems such as payment initiation services to access their banking information. According to the Bundeskartellamt, this rule impeded the use of non-bank and innovative payment solutions for the purchase of goods and/or services on the internet as lower-priced alternatives to already existing payment solutions.

15. The decision was upheld by the German courts (see decision of the Düsseldorf Higher Regional Court, VI-Kart 7/16 (V), and decision of the Federal Court of Justice rejecting the non-admission complaint, KVR 13/19). Meanwhile, the PSD created an obligation for banks to allow the use of payment initiation services.

## 3.3. Merger and market studies

16. The Bundeskartellamt has conducted various sector inquiries in the online sales sector, for example regarding online advertising<sup>3</sup> or scoring in the online retail sector.<sup>4</sup> However, so far there has been no sector inquiry specifically addressing mobile payment services.

17. The Bundeskartellamt has dealt with several merger cases in the payment sector, specifically regarding online payment services. However, the relevant merger cases could be cleared without an in-depth assessment (“Erste-Phase-Freigabe”).

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<sup>2</sup> Bundeskartellamt, decision of 29 June 2016, case no. B4-71/10; see press release of 5 July 2016, available at [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2016/05\\_07\\_2016\\_Sofort%C3%BCberweisung.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2016/05_07_2016_Sofort%C3%BCberweisung.html).

<sup>3</sup> Final report available in German language at [https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Sektoruntersuchungen/Sektoruntersuchung\\_Online\\_Werbung\\_Abschlussbericht.pdf?blob=publicationFile&v=4](https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Sektoruntersuchungen/Sektoruntersuchung_Online_Werbung_Abschlussbericht.pdf?blob=publicationFile&v=4).

<sup>4</sup> Final report available in German language at [https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Sektoruntersuchungen/Sektoruntersuchung\\_Scoring.pdf?blob=publicationFile&v=2](https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Sektoruntersuchungen/Sektoruntersuchung_Scoring.pdf?blob=publicationFile&v=2).

## 4. Conclusion

18. Pro-competitive regulation and strict competition law enforcement remain key factors in ensuring consumer welfare in the further development of mobile payment services.

19. However, regulation may, in some cases, also present a potential barrier to market entry. While innovation and new market entries create competition opportunities, severe competition risks remain and require ongoing monitoring by competition authorities, in particular in light of the strong market position of large digital companies.

20. To ensure competition between payment services, it is important that users have the option of choosing between different payment services. This also applies to mobile payment services and payment services used in e-commerce. When making the decision which service to choose, users should be able to take into account the costs incurred by merchants when accepting a particular payment service. This helps to prevent situations where merchants incur additional costs through the use of comparatively expensive payment services, which they then pass on to all their customers. Merchants will tend to include the (average) payment fees in their product/service prices, and consumers using relatively inexpensive payment methods will end up cross-financing the more expensive methods. If merchants are able to pass on the costs of using a payment service to their customers in the form of a transparent surcharge, users may be prompted to use cheaper payment services instead. This will encourage price competition between payment service providers, just as in any other “normal” market.

21. If, however, surcharging is prohibited – either by law or by contractual requirements of the payment scheme(s) – the incentive for payment schemes to compete on lower merchant fees is significantly reduced. The payment scheme(s) will find it profitable to set higher fees for merchants. Consumers will ignore the fee differences across payment instruments (as they are unaware of them) and might opt for comparatively expensive payment methods. The revision of PSD2 and the introduction of the Payment Services Regulation (PSR) appear to continue the current regulatory framework, including the surcharge ban.