

FINANSTILSYNET

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**Comments from the Danish Government on the Commission's
consultation process concerning the E-money Directive**

Referring to the consultation paper of 14 July 2005 from the European Commission on the E-money Directive (2000/46/EC), the Danish Government hereby gives its preliminary comments.

The Commission has asked several questions in connection with a broadranging review of the Directive. At this stage the Danish Government will primarily comment on general matters of principle.

According to the consultation paper, the Commission has initiated the consultation to collect evidence of the impact of the Directive and evidence of the current situation.

The Danish Government finds it very relevant that the Commission has initiated a consultation. The Danish Government welcomes the consultation and the possibility for Member States and all relevant stakeholders to comment on the rules and developments in this area.

The Danish Government recognises that there are many aspects to be considered when contemplating the future policies on e-money.

The ICT sector in Denmark continues to have concerns regarding the impact of the European rules about e-money. The rules do not seem to accommodate the technological development in the ICT sector, especially the new types of payments via the mobile phone.

From an ICT perspective, a major new market is emerging in electronic services, both in the current mobile market and in the emerging 3G-market. To ensure the competitiveness of the actors in the European markets, it is necessary that the legal framework is designed in such a way that it allows these markets to evolve. Cheap and flexible payment solutions will be fundamental to improve the conditions of the European producers of electronic content services thus strengthening Europe's strategic position in the global market. At the same time competition in the ICT sector and the financial sector will be improved.

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To the extent that the ICT sector ("hybrid issuers") is going to be regulated it is important to use a principle of proportionality between risk and cost.

The issue has been discussed on several occasions at European level, primarily in the framework of The Information Society General Directorate: The revision of the eEurope 2005 Action Plan, several Commission communications, the blue print on Mobile Payments from the Mobile Communications & Technology Platform, the Lisbon Strategy etc.

The above mentioned issues concerning the ICT sector have a broader perspective because the need for cheap and flexible payment solutions applies to several other business sectors including the transportation sector and other hybrid issuers. At the same time, it is important that new technologies are implemented in a way that ensures that all relevant aspects of payments in general, including consumer protection, trust, security, proportionality (risk and value), financial stability, sectoral and technological neutrality etc., are taken into account.

As far as the Danish Government is informed, the issue has been discussed in several Member States and the interpretations of the E-Money Directive have not been similar. These interpretations relates primarily to the definition of e-money and the interpretations regarding the implemented waivers.

The consequences could be an uneven playing field for competition between the Member States and between traditional sectoral borders. The Danish Government therefore welcomes the Commissions attempt to review the Directive in its full context.

The EU is about to pass new legislation on payments (new legal framework for payments in the internal market) and rules on money laundering.

Consequently, it is of major importance that the relevant issues are addressed simultaneously. All kinds of relevant aspects, which apply to payments in general must be analysed to create a coherent, consistent general legislation across different sectors. This is a prerequisite to establish viable long-term solutions.

The aspects includes among others:

- consumer protection,
- usability,

- trust,
- security,
- interoperability,
- innovation,
- competition,
- proportionality (risk and value),
- financial stability,
- sectoral neutrality, and
- technological neutrality.

The European suppliers of alternative payment solutions have after a period of recession begun to show small signs of recovery. In this context it is necessary to analyse the activity structures in various sectors using and/or providing payment solutions.

If Europe is to cope with the global competition and globalisation in terms of innovation and growth, the EU must facilitate optimal conditions (with reference to the Lisbon Strategy and the eEurope 2005 Action Plan).

A supportive regime for micro payments will procure access to different payment channels and will stimulate a positive development of the use of e-payment solutions for providers of goods and services in general. These effects will further stimulate the general development of the internal market and the take-up of e-business. Furthermore, secure and protected payment solutions are vital for the smooth functioning of the emerging digital economy.


To conclude, the Danish Government is in full support of the need for further analysis of the whole payment area in order to secure that rules comply with the needs of the emerging digital economy and the Information Society. Thus, to sum up the Danish Government welcomes the analysis initiated by the Commission with regard to impact assessment of the directive. The consultations of the Commission and the review of article 8 conducted by CEBS demonstrate the need of further market analysis. The Danish Government suggests that the Commission will prioritise these thorough analyses before considering further actions with regard to the fundamental questions such as:

- the lack of clarity of the rules on definition at the EU-level and therefore different implementation in member states (might there be a need of harmonisation ?)
- the viability of the waivers in the longer term due to development in technology and markets (might there be need of for instance revision clauses, regarding the market developments ?)

- the different approach to implementation of the waivers nationally (might there be a need of harmonisation ?)

Finally, the Danish Government would refer to the coming new European information society strategy "i2010". In this context the Commission suggests horizontal analysis of the need to amend current EU-legislation in order to reduce barriers to the digital economy.

Yours sincerely



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