



# Submission to the consultation on a National Payments Strategy

Department of Finance

February 2024



Coimisiún um  
Iomáiocht agus  
Cosaint Tomhaltóirí

Competition and  
Consumer Protection  
Commission

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## Introduction

The Competition and Consumer Protection Commission ('the CCPC') welcomes the opportunity to respond to the Department of Finance's consultation on the National Payments Strategy (NPS). The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition, and to provide information in relation to financial services to consumers, and the risks and benefits associated with the provision of those services. The CCPC's submission reflects this mandate. We have responded to specific and targeted questions from the consultation reflecting our remit to promote competition and the interests and welfare of consumers.

The CCPC would welcome initiatives under the NPS which assist in promoting further competition in the payments sector and, in particular, measures that support the implementation of instant payments and strengthen consumer access to open banking services. The retail banking sector in Ireland has become heavily concentrated in recent years and it will be important that policy is designed to make the payments market more attractive to new entrants and to enhance consumer choice.

### **3.1 What are your views on the timeline? What would effective key indicators to measure the progress of the NPS be?**

We agree that the NPS should cover a longer timeline than the previous payments plan (the National Payments Plan) and we also agree that having the NPS cover a period up to 2030 is sensible as it would allow it to be aligned with EU legislative developments. It will be important for the NPS to be adaptable to changes in the payment environment during the course of its lifetime. It would be beneficial if the NPS is kept under review to include any new policy and legislative developments that may impact the payment environment<sup>1</sup>.

The 2013 National Payments Plan benefited from having a clear list of recommendations in order to meet its objectives, a deadline for when they were to be achieved, and which

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<sup>1</sup> There are several legislative proposals at the EU level that may not be fully enacted by the time the NPS is finalised. For example, the proposal on the legal tender of euro banknotes and coins, the Financial Data Access and Payments package, and the proposal for an Instant Payments Regulation.

organisations had lead responsibility for their delivery. It would be welcome if the NPS follows a similar approach and includes clear deadlines for when measures to improve consumer choices across a range of areas – in particular the implementation of forthcoming rules and legislation relating to the development of open banking and instant payments – are to be met.

### **3.2 What reflections have you on the NPS principles?**

The CCPC notes the four key principles of the NPS: *1) Access and Choice, 2) Security and Resilience, 3) Innovation and Inclusion, and 4) Sustainability and Efficiency*. We welcome, in particular, the focus on access and choice as well as innovation and inclusion as they envisage a more competitive market which provides consumers with as wide a choice of payment methods as possible, underpinned by measures to protect consumers from harms such as fraud. It will be essential that strong consumer safeguards are put in place in order to build and maintain trust in the payments system. Therefore, we welcome the emphasis on consumer protection that is inherent across the principles as well as the references to financial literacy. However, there is scope for the key principles to better emphasize the importance of having comprehensive consumer safeguards in place. The principles would benefit, for example, from referencing redress options that would be available to consumers who suffer harm as a result of using a payment system.

We note that the consultation states that the NPS will go into more detail in regard to how those with lower financial literacy should be enabled to fully participate in Irish economic life. We believe that the NPS and the forthcoming National Financial Literacy Strategy should complement each other in identifying ways to assist consumers in understanding the payments system, including how to identify frauds and scams. The CCPC has a statutory role in promoting financial education and capability, and would welcome the opportunity to be further consulted on the plan to align financial literacy education and the NPS<sup>2</sup>. In our response to the Central Bank's Discussion Paper on the Consumer Protection Code, we included a recommendation for the revised Code to require financial service providers to offer consumers a prescribed minimum level of human support for

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<sup>2</sup> The CCPC role is laid out in Section 10(3)(j) of the Competition and Consumer Protection Act 2014. It can be accessed at: [Competition and Consumer Protection Act 2014 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/2014/act/34/section/10/3/j)

financial products and services provided online, at a minimum where those services are fundamental financial services or related to significant transactions<sup>3</sup>.

### **3.3 What are the main issues that undermine consumer trust in the Irish payment system?**

As noted above, the CCPC submitted a detailed response to the Central Bank of Ireland Discussion Paper on a future Consumer Protection Code. In our submission we identified a number of risks for consumers when they engage with digital products, such as new payment systems. These included:

- Financial exclusion of those who may not have the skill or confidence to use digital financial services;
- Excessive use of data profiling; new types of fraud;
- Market practices which seek to exploit behavioural bias;
- Misuse and unlawful access to data;
- Technical issues and failures of online financial services, resulting in unavailability of financial services.

The increasing level of fraud is also a growing concern for consumers, especially as institutions rely more on technology and less on human interactions for customer service.

Consumer trust in digital payment methods would be enhanced if they are aware that they have access to customer support which can enable them to make better informed decisions and deal promptly with any difficulties they have. It will be important that in the development of the NPS, consideration is given to each of these issues and there is confidence in the safeguards that are put in place to prevent them causing harm to consumers. As mentioned above, this should entail a prescribed minimum level of human support for financial products and services provided online.

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<sup>3</sup> Available here: <https://www.ccpc.ie/business/business/research/submissions/ccpc-submission-to-the-central-bank-of-irelands-consumer-protection-code-review-discussion-paper/>

### **4.3 How can the NPS continue to support vulnerable groups' access to the payments system?**

The CCPC appreciates the opportunity for coordination between the NPS and the *Harnessing Digital: The Digital Ireland Framework* and the forthcoming *National Financial Literacy Strategy* (in which the CCPC plays a leading role in supporting and funding the initial developments undertaken by the Department of Finance). This articulation is required to address critical issues, such as the digital divide and insufficient financial literacy in Ireland, in a social and financial environment that increasingly relies on digital payments. It is noteworthy that the OECD/INFE (International Network on Financial Education) is developing a tool to measure digital financial literacy (the CCPC is a member of the INFE's Digital Financial Literacy Working Group).

In addition, the CCPC will consider the digital payments landscape when redeveloping our financial education resources and education programmes, in particular those that are addressed to the unbanked/underbanked population and vulnerable groups in general, to facilitate financial inclusion and education.

The role of financial services providers (FSPs) will also be instrumental in identifying different types of vulnerability in day-to-day operations and putting in place the necessary strategies to maximise access to the payments system<sup>4</sup>.

### **4.4 What do you see as the challenges to the roll-out of instant payments in Ireland?**

As the consultation notes, Ireland is lagging behind the EU average on the uptake of instant payments. It is welcome that this will change upon the entry into force of a new EU regulation that will make it mandatory for payment service providers that offer credit transfers in euro to offer instant payments in euro to all their customers<sup>5</sup>. It will be

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<sup>4</sup> In the CCPC response to the Consumer Protection Code Discussion Paper, we set out a number of measures that FSPs could take to support vulnerable consumers. These measures would be applicable to accessing payment systems. The measures included requiring FSPs to identify indicators of vulnerability in their target market and taking vulnerable consumers into account at all stages of a product design. We also called for all FSPs to ensure that frontline staff have the skills needed to recognise and support consumers in vulnerable circumstances and to implement processes to evaluate where they have not met the needs of their vulnerable consumers.

<sup>5</sup> The CCPC received commitments from the parties in the Synch Joint Venture determination which included a commitment that Synch would include a deadline date for participants to support SEPA Instant Credit

important that payment service providers adopt a consumer-centred approach in complying with the provisions and they fully implement the provisions set out in the regulation, at a minimum within the time periods specified (i.e. within 9 months of the regulation coming into force for receiving instant credit transfers, and within 18 months of the regulation coming into force for sending instant credit transfers).

In our response to the Department of Finance consultation on the National Financial Literacy Strategy, we called for the strategy to include a focus on digitalisation of financial services. It would be of value if the National Financial Literacy Strategy identifies ways to support consumers to engage with instant payments<sup>6</sup>.

The development of instant payments will offer greater choice, but potential competition and consumer risks should also be kept in mind. Such competition risks include new payment systems becoming dominated by a few major players, leading to entrenched market concentration. It will be important, as this payments market develops, that an environment is fostered that encourages innovation and allows smaller players to enter the market. There is also the risk of an increase in fraud due to their speed and irrevocability (i.e. if the payer cannot cancel the transaction, and the payee withdraws the funds immediately). In addition, unlike most payment options, a customer cannot recall an instant payment made in error before processing.

#### **4.5 Payments fraud**

It is welcome to see that the issue of fraud will have more prominence in the new NPS than in the previous payments plan. As research by the BPF<sup>7</sup> and ComReg<sup>8</sup> shows,

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Transfer: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/04/M.21.004-Full-determination-PUBLIC.pdf> The CCPC notes that Synch is being wound up but remains of the view that progress by the retail banks in implementing SEPA Instant Transfers would be very welcome.

<sup>6</sup> The European Central Bank has previously highlighted the need for consumer education to increase the adoption of instant payments:

[https://www.ecb.europa.eu/paym/integration/retail/instant\\_payments/shared/pdf/sept2021\\_comm\\_on\\_instant.pdf](https://www.ecb.europa.eu/paym/integration/retail/instant_payments/shared/pdf/sept2021_comm_on_instant.pdf)

<sup>7</sup> See Banking and Payments Federation Ireland fraud report 2021. Accessed at: [FraudSMART Payment Fraud Report - H2 2021 - Banking & Payments Federation Ireland \(bpfi.ie\)](#)

<sup>8</sup> See ComReg consultation on combatting nuisance communications. Accessed at: [Nuisance Communications | Commission for Communications Regulation \(comreg.ie\)](#)

payments fraud is an issue that currently impacts a significant number of people. Ireland is not alone in this regard, as the publication of the OECD's first Consumer Finance Risk Monitor found that many jurisdictions are concerned that financial scams and frauds are on the rise, given the increased use of digital finance and online payment platforms<sup>9</sup>.

Proposed EU legislative changes should enhance consumer protection in this area. For example, the proposal for a Payment Services Regulation will include measures to extend IBAN verification to all credit transfers, new rules relating to unauthorised push payment fraud, as well as the strengthening of the existing Strong Customer Authentication measures. The CCPC notes that the proposal text provides that consumers that are fraudulent or grossly negligent should not be reimbursed but it does not define 'gross negligence'. The text instead states that "the evidence and degree of alleged negligence should generally be evaluated according to national law"<sup>10</sup>. The CCPC notes that Irish law does not at present contain a definition of 'gross negligence' and we would welcome further clarity on how these measures will be designed to ensure the highest standard of protection for consumers while ensuring that reckless or fraudulent behaviour is not rewarded.

In our submission to the review of the CBI Consumer Protection Code we observed that financial services providers should provide high levels of assurance in respect of cybersecurity, availability of service and protection from scams, data abuse and any other types of fraud. We recommended that these principles should be incorporated into the revised Code. Measures relating to fraud should also form part of the National Financial Literacy Strategy.

The CCPC is aware of international activity which intends to address payment fraud and that could inform the NPS as examples of best practice. The United States Federal Reserve provides guidance for how financial institutions might take a holistic view to protect their solutions and processes (it is meant for instant payments, but can be applied to any payment system):

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<sup>9</sup> See, OECD 'Consumer Finance Risk Monitor'. Accessed at: [Consumer Finance Risk Monitor | OECD iLibrary](https://oecd-ilibrary.org/consumer-finance-risk-monitor) ([oecd-ilibrary.org](https://oecd-ilibrary.org))

<sup>10</sup> Recital 82

- Stay involved and informed: Join industry councils or conferences, to keep apprised of developments in the fraud landscape and share insights with peers.
- Engage with vendors and technology partners about new approaches, including applying real-time fraud-detection capabilities and achieving a comprehensive view of transaction patterns across all payment types.
- Add suspicious accounts and aliases to a watch list to block potentially fraudulent transactions before the funds leave an institution.

Other relevant examples of strategies tackled in other jurisdictions to address fraud (and particularly APP) are listed below:

- In May 2023 the UK launched the most recent update of their Fraud Strategy with a comprehensive range of concrete measures to fight fraud, involving various stakeholders. The goal is to cut fraud incidents by 10% from pre-COVID levels by the end of 2024.
- Canada has an Anti-Fraud Centre (government agency) that works with the police and the Competition Bureau Canada. They have a dedicated portal to be used as a reference point for Canadian citizens.
- In July 2023 the Australian Competition and Consumer Commission launched their National Anti-Scam Centre.

#### **4.10 What actions could be taken domestically, and by who, to encourage/facilitate the greater uptake of open banking in Ireland?**

The CCPC notes the European Commission Impact Assessment for the PSR and PSD3 which identified two key indicators for the enhancement of open banking: increased numbers of Application Programming Interfaces (API) calls and Payment Initiation Services (PIS)-initiated payments as a percentage of all digital payments<sup>11</sup>. In the first instance this information would have to be made available by market participants, however the CCPC notes that the European Commission and the European Banking Authority will also explore the possibilities for producing better quality data on open banking in the EU<sup>12</sup>.

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<sup>11</sup> API calls is the process whereby a web or mobile application request data through an API. They are also known as an API request. PIS initiated payments enables consumers to pay for goods and services directly from their bank account without leaving the merchant's app or website.

<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023SC0231>



If the benefits of open banking were to be fully realised in Ireland, the positive impact on consumers could be significant. As has been established elsewhere, it could provide consumers with access to a wider range of financial services, offer them a better banking experience, with increased control of their financial data. It could also help foster innovation and competition in the financial sector by making it easier for fintech companies to offer consumers a greater variety of products and services. This is of particular potential added value in the current Irish context of high market concentration in retail banking.

The IMF Financial Stability Assessment Program (FSAP) Technical Note on Oversight of Fintech considered possible barriers to the uptake of Open Banking to include “issues faced by incumbent retail banks in upgrading legacy systems; a relative absence of third-party providers (the entities that may directly access payment service users’ online payment accounts with their explicit consent) operating in Ireland compared to elsewhere in Europe; general lack of interest among Irish consumers; and remaining challenges around harmonization of APIs.”<sup>13</sup> The CCPC notes the provisions in the proposed Payment Services Regulation (PSR) on minimum requirements for open banking interfaces which are intended to address the lack of harmonized standards for APIs. In addition, the PSR will require Payment Service Providers such as retail banks to set up a “dashboard” allowing consumers of open banking services to easily see what data access rights they have granted and to whom. This improved functionality should help make consumers more comfortable availing of open banking. These measures are intended to promote greater competition in the payments market and should in time provide for greater opportunities for third party providers to offer their services to consumers.

One of the expected benefits of open banking for consumers is increased competition in access to credit. Many consumers take loans from their current account providers because it is easier and involves less paperwork than applying for a loan with a different lender without access to their financial data and employment details (therefore missing the potential advantages of shopping around). Open banking should streamline the application process and make the lending market more competitive. It also enables non-bank lenders to access these data, offering customers more choices. Finally, open banking

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<sup>13</sup> <https://www.imf.org/en/Publications/CR/Issues/2022/07/25/Ireland-Financial-Sector-Assessment-Program-Technical-Note-on-Oversight-of-Fintech-521281>

can simplify the decision-making process for lenders, as they are provided with real-time aggregated data. Ideally, this transparency should imply better conditions for borrowers and more tailored and personalised loans.

Open banking has the potential to help consumers keep track of their financial situation more accurately. It has value from a financial literacy perspective, as people may be able to make more informed decisions and adopt healthier financial behaviours.

The CCPC can play a central role in educating consumers about the connection between open banking and easier budgeting and financial planning, as well as make them aware of the caveats and cautions that must be taken to make the most of it. In addition, the development of the NPS might explore the potential for implementing initiatives (informed by behavioural insights) to help consumers to engage with a more digital financial landscape (open banking, instant payments, etc.). Consideration might also be given to insights from behavioural research on how to enable users to enjoy the expected benefits of open banking while protecting and controlling their sensitive data.

## **5. Access to cash**

We note that the NPS will examine issues relating to access to cash. The CCPC welcomed commitments made in the retail banking review (RBR) in relation to this issue as we recognise the importance of continued access to cash services, particularly for those consumers at risk of financial exclusion or those who are less able to engage with services online. The consultation paper poses a series of questions in regard to the “reasonable access” criteria as contained in the *General Scheme of the Access to Cash Bill 2024* (‘the Access to Cash Bill’) and whether that criteria should change in the future based on the degree of use of cash<sup>14</sup>. The CCPC notes that the European Commission proposal for a Regulation on the legal tender of euro banknotes and coins contains provisions relating to access to cash and that it will be subject to review five years after entering into force. It may be valuable to have a reliable dataset to inform any such evaluation, including information on cash usage.

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<sup>14</sup> <https://www.gov.ie/en/publication/377b2-access-to-cash-general-scheme/>

The CCPC notes that the explanatory text in the Access to Cash Bill suggests that collaboration between designated entities may be necessary to give effect to directions of the Central Bank to remedy a defect in cash access. In our submission to the RBR, the CCPC recommended that the Department of Finance should consider the market impact and potential competition issues that may arise from the establishment of banking hubs. Banking hubs have been established in the UK for example as a means to ensure continued access to cash services. The CCPC is available to discuss such matters with the Department of Finance.

## **6. Acceptance of cash**

The CCPC notes that the European Commission proposal for a Regulation on the legal tender of euro banknotes and coins ('the Proposal') states that it is intended that any regulatory "measures do not go beyond what is necessary to guarantee the objectives of acceptance of and access to cash, and the proposal leaves flexibility for Member States to only take measures where they are needed and to tailor the measures to their particular national circumstances"<sup>15</sup>. The Proposal is intended to give effect to the jurisprudence of the Court of Justice of the European Union to ensure, in principle, mandatory acceptance of cash<sup>16</sup>. It is noted that the European Commission would be empowered to adopt implementing acts on a set of common indicators of general application in the euro area, which would allow the Member States to effectively monitor and assess the acceptance of payments in cash. Such implementing acts would be drafted in consultation with the European Central Bank. The CCPC notes the Opinion of the European Central Bank on the Proposal and its view that unilateral exceptions should be prohibited<sup>17</sup>.

The consultation paper enquires as to whether cash acceptance can be limited to certain critical classes of payment. It is understood that this is in reference to the possibility of designating certain classes of firms, sectors or sub-sectors to accept cash for in-person transactions. The Proposal appears to anticipate mandatory acceptance of cash subject to certain exceptions. Those exceptions appear to be based on circumstances such as a

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<sup>15</sup> [https://economy-finance.ec.europa.eu/system/files/2023-06/COM\\_2023\\_364\\_1\\_EN\\_ACT\\_part1\\_v6.pdf](https://economy-finance.ec.europa.eu/system/files/2023-06/COM_2023_364_1_EN_ACT_part1_v6.pdf)

<sup>16</sup> See Joined Cases C-422/19 and C-423-19 here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019CJ0422> The CCPC notes that the proposal text states that "legislating on these matters is largely a matter of clarification and codification in the interests of coherence and better law-making, with little margin for policy choice."

<sup>17</sup> [https://www.ecb.europa.eu/pub/pdf/legal/ecb\\_leg\\_con\\_2023\\_31.en.pdf](https://www.ecb.europa.eu/pub/pdf/legal/ecb_leg_con_2023_31.en.pdf)

temporary shortage of change, or based on agreement between the consumer and the business, rather than based on the nature of the enterprise itself. It is not clear to the CCPC that there is a need to designate particular classes of businesses to give effect to the Proposal. As is noted in the consultation paper, the ECB Opinion calls for further amendment of the Proposal to exclude “*ex ante* unilateral measures” such as ‘no cash’ signs. If the European legislature agrees to include such measures in the final text of the regulation it would negate the need to designate classes of business, as all businesses would be expected to comply with its terms.

The CCPC notes the requirement in the Proposal that Member States notify the results of their monitoring and assessment of acceptance of, and access to, cash to the European Commission and European Central Bank. The CCPC has limited observations to make in this regard as cash acceptance falls within the monetary policy of the European Union and is outside of the remit of the CCPC. While it is the prerogative of policy makers to determine measures by which acceptance of cash will be given effect, this should be considered in the context of encouraging innovation in products and services. Competitive dynamics in markets should be considered when designing policy measures to ensure cash acceptance without limiting the ability of firms to compete and innovate. It noted that the Access to Cash Bill provides for the Central Bank of Ireland to monitor the level of access to cash and take remedial measures where access levels fall below the criteria to be published by the Minister for Finance. Any regulatory role that may be required to give effect to the Proposal in Ireland should be assigned to the Central Bank of Ireland. To that end we note the role that the Central Bank is intended to perform in relation to access to cash under the General Scheme of the Access to Cash Bill 2024.

The consultation paper enquires as to whether consumers have sufficient choice when paying for everyday goods and services. The implementation of rules which mandate the acceptance of cash will ensure that consumers continue to be able to use that medium of exchange while continued adoption of digital payments will ensure a choice of medium. In this regard it is important to ensure that the implementation of Instant Payments in Ireland is expedited to ensure that consumers have the widest choice of payment options.

ENDS