

INTRODUCTION

1.1 Payment systems are crucial in underpinning all economic life in the UK. It is virtually impossible to participate in a modern economy without cash and cheques and increasingly inconvenient and expensive to participate without access to electronic forms of payment. There is a wide range of payment systems in the UK ranging from cash through debit and credit cards to automated clearing schemes such as BACS and CHAPS¹. Altogether there are around 35 billion transactions a year by these different means.

1.2 The Cruickshank report, *Competition in UK Banking*, found serious competition problems and inefficiencies in the market for the provision of payment services². These included:

- poor and outdated governance structures;
- lack of effective competition between schemes;
- anti-competitive restrictions on access;
- anti-competitive and inefficient wholesale pricing;
- lack of innovation in the use of existing payments infrastructure;
- slow and inflexible service to end users;
- poor transparency to end users; and
- ineffective framework for government intervention.

1.3 The report concluded that there were serious competition problems in the UK payment systems. Basic flaws in governance contributed to concentrated market structures in markets to supply customers and small businesses. This led to poor service levels and high consumer prices. Innovation was thwarted by vested interests, hampering technological progress and the development of e-commerce.

1.4 The report therefore recommended that the Government should establish a licensing regime to regulate competition in payments markets with licence conditions to secure: price transparency; good governance; non-discriminatory access; efficient wholesale pricing; and fair trading.

1.5 The findings of the Cruickshank report have been echoed in recent decisions by competition authorities elsewhere in the world. For example, a joint study by the Australian Consumer and Competition Commission and the Reserve Bank of Australia into debit and credit card schemes was published in October 2000³. Similarly, the European Commission recently published details of its investigations into the Visa International payment card scheme⁴. The Department of Justice in the United States is also pursuing an anti-trust case against Visa and MasterCard.

1.6 The Government shares many of these concerns about the lack of competition in the provision of payment services. Following publication of the Cruickshank report, the Chancellor of the Exchequer announced in the Budget in March 2000 that the Government would legislate to open up access to payment systems and to oversee access charges.

¹ See Annex 3 for a glossary of abbreviations and technical terms.

² Don Cruickshank *Competition in UK Banking: A Report to the Chancellor of the Exchequer* March 2000.

³ RBA/ACCC *Debit and credit card schemes in Australia: A study of interchange fees and access*.

⁴ European Commission "Commission plans to clear certain Visa provisions, challenge others" *Press release IP/00/1164* 16 October 2000.

1.7 The Government's intention to legislate was confirmed in its response to the Cruickshank report which was published in August 2000⁵. This highlighted a number of complex issues which would need to be resolved in bringing forward legislation including:

- the precise scope of any regulatory regime;
- the interaction with UK and European competition law; and
- the interaction with banking supervision and issues of financial stability.

1.8 The purpose of this document is to set out in detail how the Government proposes to establish a regulator for payment services and to consult on a number of key issues such as the:

- regulator's objectives;
- regulator's powers and functions;
- appeals processes;
- roles of other authorities with an interest in payment systems;
- scope of the new regime; and
- proposed rules.

1.9 The next chapter explains the rationale for the new regime and how consumers can be expected to benefit. This is followed, in Chapter Three, by a description of the proposed new framework, in particular how it is envisaged the new regulator will fit in alongside other authorities such as the Bank of England and Financial Services Authority (FSA). Chapter Four describes the planned objective of the new regulator, the regulatory principles to which it would have to have regard and details of its proposed functions and powers. The scope of the new regime and the proposed rules are then set out in Chapter Five. Finally, Chapter Six summarises the issues for consultation.

⁵HM Treasury *Competition in UK Banking: The Cruickshank Report – Government response August 2000*.