

19 Item 08/16(ii)



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Code of Conduct for Indirect Access Providers
Consultation Response
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Dear Sir

CODE OF CONDUCT FOR INDIRECT ACCESS PROVIDERS

The Cheque and Credit Clearing Company (C&CCC) welcome the opportunity to respond to the Payment UK consultation “Code of Conduct for Indirect Access Providers”.

BACKGROUND

We have already provided a response to the Payment Systems Regulator’s (PSR’s) market review on “Indirect Access to Payment Systems MR15/1.1”.

RESPONSE

Q1. Were you previously aware of the code of conduct for Indirect Access Providers or is this consultation your first experience of it?

We were aware of the PSRs work and review in this area, but were unaware of the code and this consultation until the press release was made.



Q2. To what extent do you think that the code, as currently set out, will be effective in achieving its aims of increasing the confidence of indirect PSPs in the supply of Indirect Access and improving the outcomes for service-users?

We believe that more communication, agreement formalities, service continuity plans and information confidentiality can only help indirect participants and increase their confidence in the indirect use of payment systems. However, this is a very narrow range of commitments and would expect more commitments to be given once indirect PSPs have responded to the code.

Q3. How appropriate do you think the current scope of the code is in supporting the achievement of its stated aims?

We would suggest that the aims of the code are more clearly identified at the start of the code.

Q4. Do you consider that a voluntary code is the most effective model to support the code aims of increasing confidence in the supply of indirect access and improving outcomes for service-users, or would you propose an alternative model?

It is a difficult balance to make. Both have their own advantages and disadvantages. On balance, however, a compulsory code has more benefits than voluntary. This is primarily because a compulsory code will be considered to provide more certainty to the indirect user, despite some of the standards being lower due to the necessity of obtaining agreement with the code subscribers. However, this needs to be balanced against the desire to enlarge the number of code subscribers irrespective of if they are members of Payments UK.

Q5. Would you be supportive of any or all of the suggested additional inclusions in Commitment 1? Are there any other elements that you would like to see included in an update version of Commitment 1?

We do not see how a maximum recommended length of time for negotiation of an Indirect Access contract within Commitment 1 would work. We would agree that the contractual aspects of Indirect Access must be transparent and any pricing should be clear. It is suggested that where parts of contracts are standard and cannot be negotiated by the indirect user there should be an onus on the code subscriber to that contracts should be "fair and reasonable". We are aware that many indirect users are concerned about notice period for termination and/or transition of services in circumstances other than an immediate termination of services as a result of a breach contractual or regulatory terms. We suggest that the minimum notice period should be linked to the application period for full participation in each payment scheme.



Q6. Would you be supportive of any or all of the suggested developments for Commitment 2 to address any of the communication areas outlined above, or are there any other elements not already mentioned that you think would be beneficial to include in Commitment 2? Are there any types of information or communication that it might be beneficial for Commitment 2 to reference specifically?

Yes, supportive. Information should also be provided on what the fault, how it was fixed and what is being done to prevent reoccurrence. There also needs to be firm SLA's between the two parties, regular reporting and an escalation process. Generally on communication we believe that the code should insist that indirect PSPs are kept informed of payment scheme requirements by their sponsor so that they are not disadvantaged by a lack of knowledge.

Q7. How confident are you that Commitment 3 will address the concerns raised by indirect PSPs? Would you support the addition of the measures noted above or suggest any other elements that could be included in this commitment to support its effectiveness?

Yes, we are generally in favour. We are aware that indirect PSPs are concerned about a lack of transparency in termination and the handover period to another sponsor. More transparency appears to be needed together with the rationale.

Q8. To what extent does this Commitment give you confidence that if you needed to move your services from a subscribing IAP to an alternative provider (to either a Direct or Indirect relationship), you would receive a sufficient level of structured support from your outgoing IAP to safeguard your customers' services during that transition?

No comment

Q9. How well does the current content of Commitment 4 reassure you that a Code Subscriber would safeguard the confidentiality of sensitive information provided in the course of setting up and/or maintaining an indirect PSP's Indirect Access services and are there any additional elements that you might expect to see included in this commitment that would increase your confidence further?

We are aware that this is a major concern of some indirect PSPs where they may be in direct competition with their sponsor. Any improvement and added reassurance we are certain would be welcome.



Q10. Of the topics listed above, are there any that you would particularly like to see addressed in an updated Code and how could this be achieved? Are there any other topics that are of concern to you that you would like to be considered for inclusion in an updated version of the Code, either within one of the existing commitments or as a new theme?

All three are considered important, but 'requiring IAPs to provide Indirect PSPs with payment services that are on a par with those that can be achieved via Direct Access' will probably be seen by most indirect PSPs as the most important. This commitment will be seen as going some way in providing a level playing field.

Q11. How effective do you think the methods for Code administration, monitoring and sanctions outlined in the Code will be as a way to encourage IAPs to maintain their compliance with the Code? Would you suggest any other measures are introduced to increase the effectiveness of the existing methods or are there any alternative approaches that you think might be more effective?

There is a need for an independent review and arbitration system before going to the PSR. We also believe that it would benefit from an external audit and compliance process as this will improve transparency.

Q12. Do you consider that Payments UK is the right body to undertake the Code Administrator role and does the role, as currently described, afford the Code Administrator the right level of independent oversight and authority? If not, are there any other options that you would suggest are required? How do you see the regulator's role in supporting Code administration and Compliance?

We are concerned that Payments UK will not be seen as an independent overseer, but rather as a trade association which would weaken the impact of the code.

Q13. What is your opinion on the suggested introduction of a mediation step; if you would be supportive of this option, how would you see this operating?

Yes, mediation will be required and should be provided by an independent body.

Q14. Are there any other matters pertaining to any aspect of the Code of Conduct for Indirect Access Providers not covered in previous sections that you would like to share your views on?

No.



CONFIDENTIALITY

C&CCC is content for this letter to be made available to the public. We will be making it available through our website.

Yours faithfully

Steve Grigg
Acting Chief Executive Officer of Cheque & Credit Clearing Company Ltd