

A CRITICAL ANALYSIS OF THE PAYMENT SERVICES DIRECTIVE 2 AND ITS EFFECT ON CONSUMER PROTECTION AND DATA PROTECTION

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The enactment of Directive (EU) 2015/2366 on payment services in the internal market, commonly known as the Payment Services Directive 2 (PSD2) allows the non-bank institutions to provide access to payment services to any consumers, without depending on credit institutions. This has caused a disruption in the traditional payments market, expecting incumbents to think of new creative business models to help them remain competitive. In so doing, the payments landscape has completely changed.

This study attempts to analyse the written word of the PSD2, which repealed the first attempt of the EU to regulate the payments market; a sector big enough to merit its own pillar in the financial services, alongside banking, insurance and investment services. Although the Payment Services Directive 1 (PSD1) was rescinded, certain provisions of the PSD2 were left to the Member States' interpretation during the transposition stage, despite the various discussions preceding the final text publication. The study looks at the legislative history of the payments sector to provide an insight on the desire to repeal PSD1 in its entirety, whilst enacting a new framework in its stead.

The innovative developments during the early 2010s brought new actors to the payment market. The desire of the European Commission was to regulate such technology tools, whilst pinpointing key factors inducing such changes in the EU payment sector. Credit institutions, although, just acquiring a new level of trust, following the collapse of the Financial Services market in 2008, have had their dominance in the sector substantially reduced due to the new participants entering the market.

On the basis of market competition, this study sets to look at how the latter affected the desired European Union's goal for prioritization of consumer protection. This

dissertation explores the merits of maintaining a balance between safeguarding the rights of the consumers whilst implementing a meticulous process for new market players to access the market without significantly reducing their margins.

The study also looks at the interplay between the PSD2 and EU data protection laws which indirectly affect the consumers' rights to privacy. Such analysis reveals that despite the rigorous text of the PSD2 and the General Data Protection Regulation, also known as the GDPR, the market players involved are lost in guidelines and different interpretations, only to have to adhere to two huge legal frameworks and ensure that no penalties for regulatory breaches ensue.

A payment, whether domestic or international, is no longer a desire, but rather a necessity. An online payment should be equivalent to shopping at a retail outlet in all Member States of the European Union. This is possible through technologic innovation which continuously shifts and progresses the European payment landscape, whilst the rigorous regulatory framework allows flexibility for all market players involved.

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