

ESTA update

ESTA Conference

Vienna, 20 May 2019

Thierry Lebeaux

Secretary General

- UK consultation on Digitalisation of Payments/Access to cash
- Cash contingency
- Social dialogue meetings
- Cash payments limitations

ESTA's responses focused on:

- **Cash is public money, digitalisation is privatisation of money**
- **Digital payments – no need for public support !**
- **Social aspects of cash**
 - Cards and overspending/overindebtedness
 - The least well-off are going to be impacted
- **Macro aspects of cash**
 - Financial stability
 - Cash saved the world – literally !



UK consultation on digital payments - response

218 responses, 86 organisations: published on 3rd May 2019 :

- **Digital payments will grow, cash will decline**
- **Issues to be addressed with digital payments:**
 - Competition
 - Transactions costs & Transparency of costs
 - Outage and security
- **Strong focus on tax evasion and money laundering**
- **Cash remains vital for many**
 - Government committed to safeguard access to cash
- **Creation of a “Joint Authorities Cash Strategy Group”**
 - BoE, Treasury, Payment system regulator and Financial conduct authority

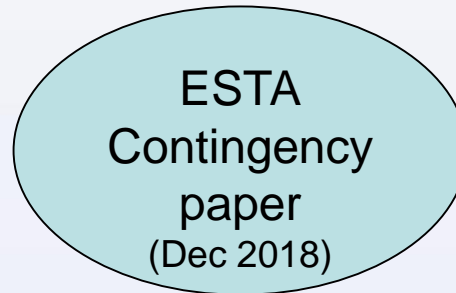


Cash and digital payments in the new economy:
summary of responses

Keep payments safe
efficient and competitive:

- Continuity of payments
- New payment landscape

Financial stability
(*"no cash, no banks"*)



The CMC industry can play its
role, if:

- Flexibility in cash processing
- Balance sheet relief mechanisms
- Nation wide operators

Legal tender

What does it mean if anyone
can refuse a payment in
cash ?

Condition for cash continuity

- Availability of cash services
- Change money

- **CoESS as a social partner with UNI Europa**
- **Cash issues introduced in the social dialogue agenda in 2017**
 - Cross border regulation
 - War on cash
 - Cash phase out in Sweden and Access to Cash review in the UK
- **Phase out of cash and impact on employment**

Commission report (June 2018):

*"Cash is the starting point of money laundering, which **requires some cash** transactions, often through the acquisition of high value goods".*

Use of Money



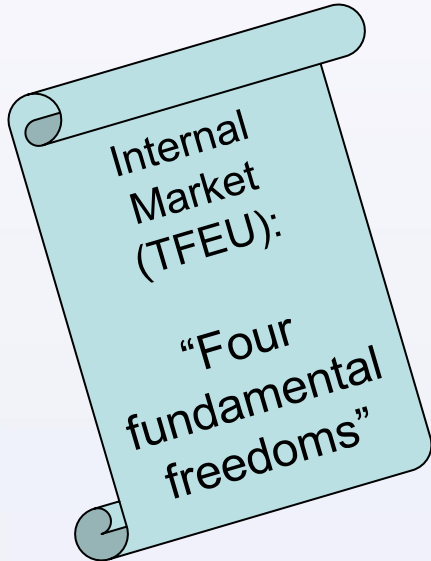
Concealing the source of monies



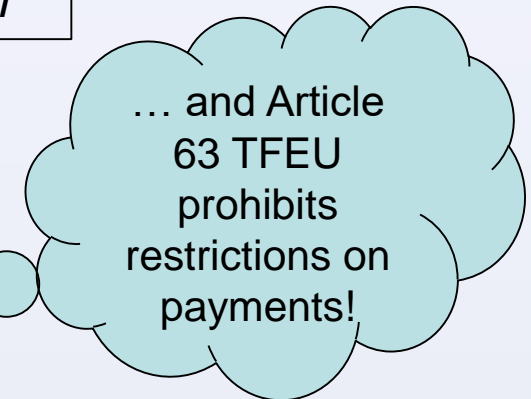
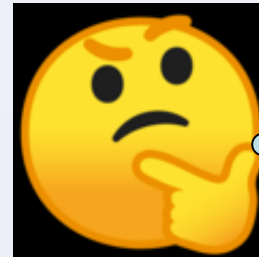
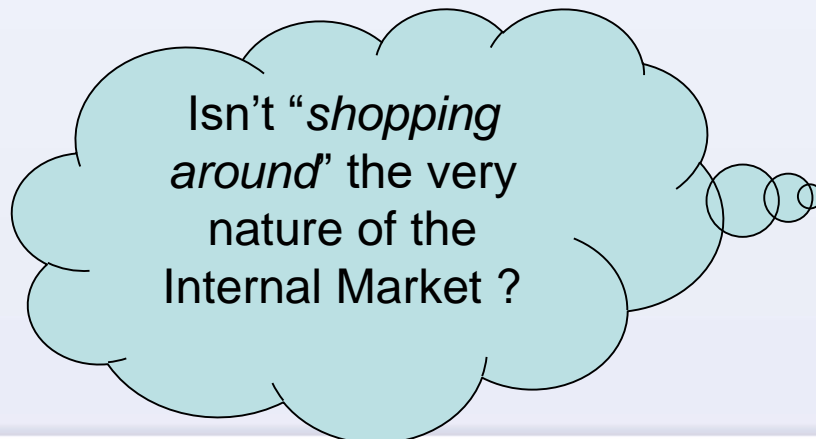
~~Money Laundering~~

Money Laundering

"CEPS report supports the assumption that cash restrictions have an impact on displacement of turnover"

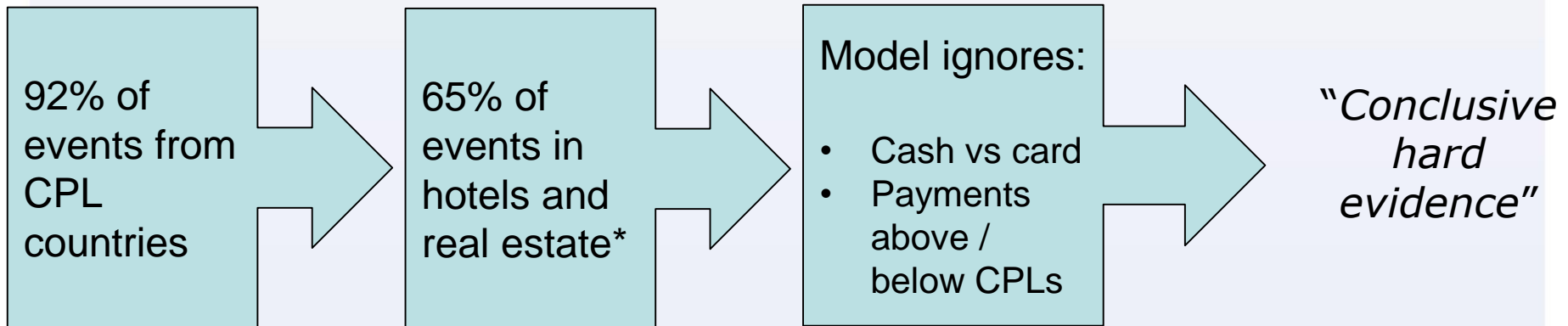


CEPS:
Free movement
=
"Cross Border Evasion"



Objective: "Show if CPLs generate cross border displacement" through a regression model (Sample 1.2m events)

- However, CEPS 'circular' hypothesis reads:
"in case of existence of CPL in a Member States, the hypothesis will be that there will be displacement" (!)



CEPS conducted no assessment of displacement between countries with CPL and countries without

* i.e. immovable goods : cross border trade requires consumers' displacement !

There is therefore nothing to warrant the conclusion in the Commission report that:

- *“A prohibition of high value payments in cash could have a positive impact on the fight against money laundering”.*
- “Diverging CPL distort competition in the internal market, leading to potential relocations of businesses across borders”

A cautious response from Commissioner Moscovici



Mr. Pierre MOSCOVICI
Member of the European Commission
Rue de la Loi, 200
B-1049 Brussels
Belgium

Brussels, 4th July 2018

Dear Commissioner,

Re: Cash payments restrictions: initial comments on the Commission 12.06.2018 based on the CEPS/ECORYS study

We are writing to you on behalf of the three main trade associations dealing with cash.

The Commission Report COM(2018)483-Final on restrictions on payments in cash ("the Report") was published on 12th June 2018. Having read the report and the CEPS/ECORYS study ("the Study"), we feel compelled to make a number of important comments on three major issues.

- 1) Inadequate and partial use of inputs received during the public consultation process**
The study has only used a tiny part of the consultation inputs and only those which concur to support the hypothesis of the authors. The vast majority of qualitative inputs submitted to the Commission during the 2017 public consultation has not been considered for the Study. It would be surprising if the Terms of Reference given to CEPS/ECORYS did not require them to consider this input.¹
- 2) No evidence is gathered that cash restrictions might improve the effectiveness of anti-money laundering policies**
The Study seems to never really grasp the complexity and peculiarity of money laundering and confuses money laundering, which is the process of *disguising* the origin of illicit funds (cash or non-cash) and the *use* of illicit money. The distinction between both is fundamental, as the use of unlaundered illicit money can be easily prosecuted, whilst in the case of laundered funds, the proof of laundering is needed before any legal action can be undertaken. Cash payment restrictions are totally ineffective in the case of laundered funds, which have the appearance of licit funds. The main questionable outcome of the Study is to believe that a minor offence related to cash payment restrictions might act as a deterrent vis à vis persons and organisations already perpetrating very serious offences severely reprimanded by the law.

¹ The only reference to it seems to be the comment page 87 that "position papers of stakeholders representing companies in cash reliant sectors pointed to the negative effect of cash restrictions"

PIERRE MOSCOVICI
MEMBRE DE LA COMMISSION EUROPEENNE

Brussels, 10 SEP. 2018

It was drafted under the responsibility of its authors.

... July regarding the Ecorys/CEPS study on restrictions on payments in cash, and the Commission report published on the same issue.

The study and the report are the result of an initiative stemming from the 2016 Action Plan against terrorism financing¹. The study has been commissioned with a special focus on terrorism financing. It was drafted under the responsibility of its authors. The Commission's report draws from the findings of the study, and the main conclusion is that the Commission is not considering any legislative initiative at this stage. If any future initiative were to be decided, it would, in the framework of "Better Regulation"², require the preparation of a full impact assessment.

At this stage however, this initiative³ is closed.

Yours faithfully,

Pierre Moscovici

Mr. Ron DELNEVO, Executive Director Europe ATMIA
Mr. Patrice RULLIER, Chairman EURICPA
Mr. Thierry LEBEAUX, Secretary General ESTA

¹ COM(2016) 50.

² COM(2015) 215

³ Initiative described in the Inception Impact Assessment of 23 January 2017

http://ec.europa.eu/smart-regulation/roadmaps/docs/plan_2016_028_cash_restrictions_en.pdf

Review of Art 114 TFEU as a legal basis for CPLs

The very nature of the IM is the opportunity to « shop around » for the best deal accross borders (unite markets into a “single market”)

Disparities in rules not enough: there must be an appreciable risk of damage to the working of the IM.



Sir David Edward QC

CEPS study shows no difference in efficacy between **CPLs** and simple “**declaration obligations**”.

Compatibility of CPLs with Art 63/65(1.b) TFEU

?

CEPs study largely anecdotal

Limited evidential basis for EU legislation

Thank You