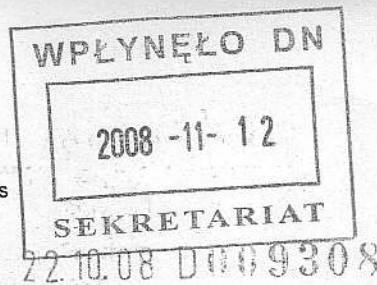




EUROPEAN COMMISSION
Competition DG

Markets and cases III: Financial services and Health-related markets



Brussels,
COMP/D1/2008/DV

Ms. Halina Pupacz
Polish Chamber of Liquid Fuels
Ul. Słomińskiego 19, lok. 521
00-195 Warszawa
Poland

Cc.:

Ms. Małgorzata Krasnodebska-
Tomkiel
Polish Competition Authority
Plac Powstańców Warszawy 1
00-950 Warszawa
Poland

Subject: Your letter of 25 September 2008 to Commissioner Kroes

Dear Ms Pupacz,

Thank you for your letter of 25 September 2008. Commissioner Kroes has asked me to reply on her behalf.

We understand from your letter that you are concerned about the high commissions and fees charged by the card companies for the transactions effectuated with their payment cards. You write that these charges in the 15 "old" Member States of the European Union are much lower than the ones charged in Poland. According to your letter banks' common agreement on these interchange fees is a violation of competition and consumer protections laws.

According to the competition rules of the European Community, agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction, or distortion of competition within the Common Market are prohibited (Article 81 of the Treaty). Moreover, the fact that an undertaking is abusing its dominant position within the Common Market or in a substantial part of it is prohibited, insofar as it may affect trade between Member States (Article 82 of the Treaty).

For your information, the European Commission has recently concluded its examination of the Multilateral Interchange Fees (MIFs) applied by MasterCard within the European Economic Area (EEA) and has adopted a prohibition decision on 19 December 2007. You can access the non-confidential version of the decision on the website of DG Competition at http://ec.europa.eu/comm/competition/antitrust/cases/decisions/34579/provisional_nc_decision.pdf

Furthermore, in March 2008 the Commission has announced the opening of proceedings against Visa Europe. The proceedings will assess whether Visa's multilateral interchange fees are not in violation of EC competition rules. You can access the press release announcing the opening of proceedings at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/170&format=HTML&aged=0&language=EN&guiLanguage=en>.

Finally, you indicate in your letter that the Polish national competition has found that the collective setting by banks of the interchange fees was illegal and has ordered Visa and MasterCard to bring the infringement to an end. You add that despite this decision the charges have not decreased.

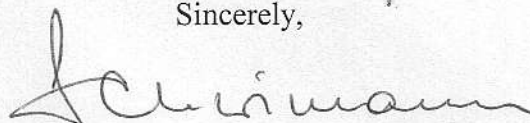
Regarding the Polish proceedings, you might be aware that the above mentioned decision of the Polish competition authority has been appealed to the national courts. According to the information at our disposal, the application of the decision is suspended subject to the outcome of the appeal. This probably explains the fact why the fees in Poland have not yet decreased.

If you have further questions regarding the Polish proceedings, the national competition authority might be better placed to answer them. You can find more information on how to contact them at http://www.uokik.gov.pl/pl/kontakt_20/departamenty_uokik/#pytanie11. For your information, we send a copy of this letter to the Polish competition authority as well.

For the avoidance of doubt, it should be stated that we regard your information as market information and not as a formal complaint that has to comply with all legal requirements set out in Article 5 of Commission Regulation 773/2004.

We do appreciate however that you have chosen to inform us of this issue and we have taken note of your concerns. Should you have any additional information that would indicate that the Community competition rules would be applicable, please do not hesitate to contact us again.

Sincerely,



Irmfried SCHWIMANN
Head of Unit