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Commercial Independent Bureaux Association (Section 21) reg. 2004/022608/08

Competition Commission
Pretoria

25 October 2006

ATTENTION: Competition Commission Enquiry Panel

Dear Panel,

RE: Submission to the enquiry by non-banks

Members of our bureau association have requested that we submitted the following documentation to your selves.

1. Three drawings explaining graphically the flow of debit and credit transactions to and from Bankserv via
 - a. direct submissions
 - b. Submissions via Bureau
 - c. Submissions directly to a Bank

These drawing are only a summary of the transaction flow and fees payable a in-depth presentation can be given with regards to this

2. A drawing of a typical bureau operational diagram
3. A mind map of CIBA's previous presentation to the Competition Commission
4. A letter addressing some of CIBA's concerns regarding the anti competitive nature and barriers of entry of the banks and Bankserv

Yours sincerely,

C.N. ALLEN
Chairman

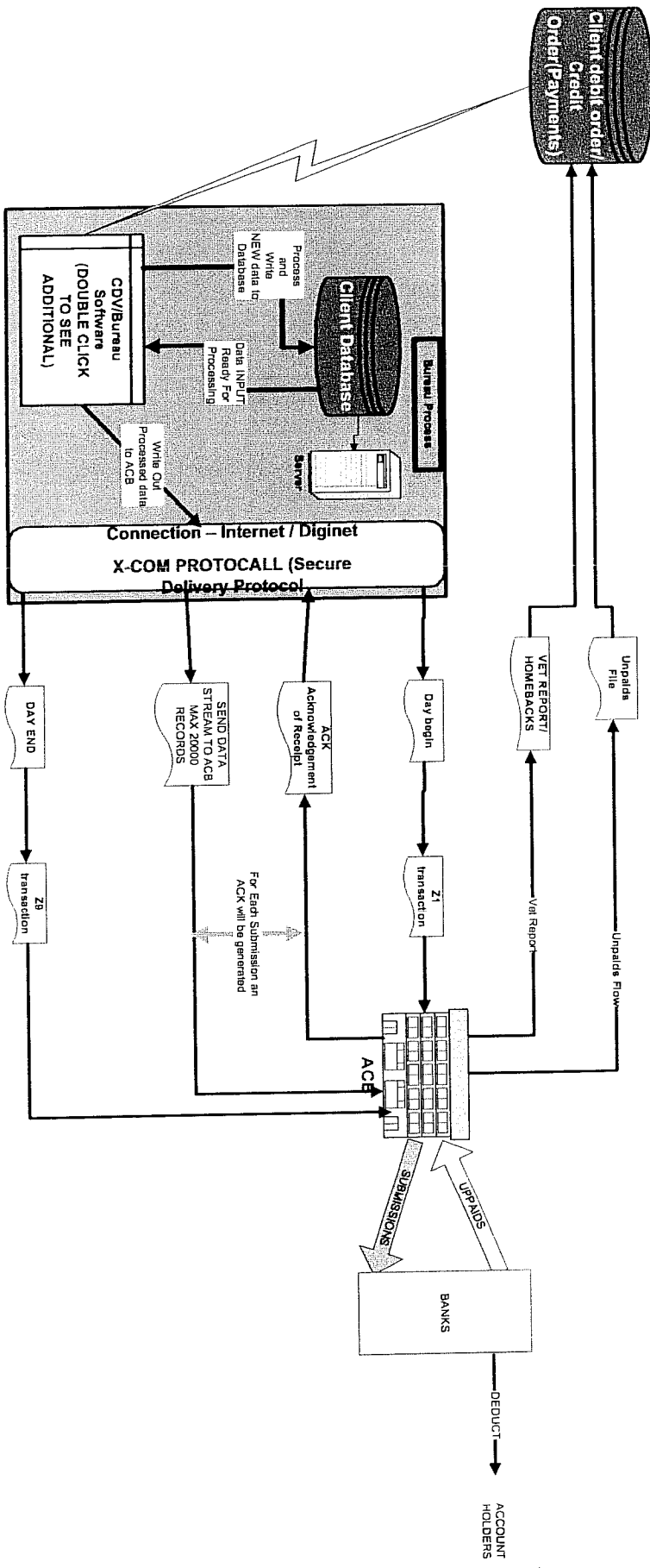
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SOFTWARE

Transactional Flow IN Electronic Sub Mission to Bank Serve





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The following submission serves to document various issues, concerns and comments pertaining to the collections and payments industry insofar as it relates to the experiences of independent bureaux operating within the framework of the national payments industry and payment system in South Africa.

Whilst the so-called "National Payments Industry" referred to above clearly has specific legal regulations and implications based on various statutes and other relevant directives, the terminology used in this submission is used as general descriptive statements of the industry under discussion, with no specific reference to the systems, bodies and associations established by statute. Therefore, the structures within the payments system referred will necessarily include bodies and associations such as the Banking Council, PASA, SAPSA, the various Payment Clearing Houses (PCH's), together with their associated committees and sub-committees that regulate and manage the payments industry, but these are referred to and mentioned in general without any specific priority or import.

By way of initial introduction, please note that the Commercial Independent Bureau Association (CIBA) is a Non-Profit Organization (NPO) committed to the coordination, mobilization and management of smaller, independent organizations facilitating collections and payment transactions and services within the payments industry and so-called payments system in South Africa. Therefore, the following document serves as an attempt to describe certain of the functions at Bankserve that create concerns for CIBA as an organization representative of its individual members.

In this regard, Bankserve is currently the entity established as the systems operator within the payments system or payments industry, and most of the issues, comments and concerns will include reference to the processes and procedures experienced by the bureaux in the utilization of payment services from banks on the one hand and Bankserve on the other, not with a view to criticize these institutions in particular, but rather to identify processes and procedures that we as CIBA believe require review, amendment and improvement for the sake of achieving the following objectives for the broader benefit of the individual members of CIBA: Greater transparency of principle and procedure; broader and fairer access; equality of competitive landscape in order to prevent the establishment of artificial barriers to entry; equality of pricing irrespective of volume of transactions; and lastly, the continued control and management of the introduction of risk to the payments system (i.e. continue to reduce or preferably eradicate so-called systemic risk).

Therefore, the comments and concerns referred to in this submission will necessarily include the services offered by Bankserve whereby the customer of a bureau has an account with a bank, which bank is authorized to operate within the framework of the payments system and

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whereby the bank from time to time makes use of the services of Bankserve to facilitate the provision of collections and payments services to the customer of the bureau in question.

Therefore, the following serves to document in some descriptive form and manner the observations of the members of CIBA with specific reference to the operation, processes and procedures of Bankserve as it currently operates, but specifically insofar as it negatively affects these smaller, independent, non-banking institutions. In attempting to highlight these processes and procedures that negatively influence the operations of these smaller, independent operators, it is hoped that the document and submission will not be viewed as an attempt to incriminate any specific party or organization, but rather document and highlight areas of concern within certain processes and procedures, which processes and procedures require amendment and/or improvement in order to achieve the specific objectives of greater transparency, broader and fairer access, equality of competitive landscape in order to remove artificial barriers to entry, and the continued management and/or reduction of the introduction of systemic risk within the payments system.

The first comment to be made or issue to be raised on behalf of CIBA would be of a general nature concerning so-called "stakeholder" status within the framework of the current National Payment System Act or any other relevant statute and/or directive. It seems to be an anomaly for CIBA and its individual members that in terms of the NPS Act, an organization such as CIBA has received a degree of recognition as a so-called "stakeholder", and whilst a committee or body such as SANPAY recognizes CIBA or similar organizations as worthy of engagement based on their "stakeholder" status, other bodies, organizations, committees and sub-committees such as PASA, SAPSA and others, refuse to recognize CIBA or similar bodies worthy of engagement. It seems that currently it remains a priority for Bankserve to provide a service to the banking industry (i.e. banks) and not to independent operators. Therefore access to Bankserve has traditionally only been provided via an existing bank and efforts on the part of the individual members of CIBA to obtain access directly to Bankserve have been frustrated with lack of clarity, lack of equality, lack of access and inconsequential pricing (see further comments below regarding pricing).

The second comment to be made or issue to be raised on behalf of CIBA would be of a more specific nature insofar as it pertains and relates to the lack of consequential pricing offered by the banks and Bankserve. In attempting to convey this point successfully, it is necessary to describe a variety of background processes and procedures that may be regarded by some as superfluous, which processes and procedures will nevertheless be described in some length for the sake of completeness. The first point to take note of is that when a particular customer in question (i.e. Company A) would like to make use of services available within the payments system, Company A must open a bank account with one of the banks approved in terms of the Act, which bank is obviously appropriately and accordingly registered with the appropriate bodies, PCH's, committees and sub-committees to offer collections and payments services

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within the payments industry and payments system. It also follows that the bank in question offering the particular payment services in question has concluded appropriate agreements with Bankserve to provide the electronic collections and payment services as offered to Company A, as per the example further described in the paragraph here below.

In broad, simple terms the customer (Company A) has one of two options. Company A can make use of the banks internal "bureau", often also referred to as the banks "electronic banking division", or alternatively Company A can make use of an independent operator or bureau providing collections and payment services within the payments system or payments industry. This inter-relationship between the bank providing the customer (Company A) with the customer's corporate or commercial banking services as well providing Company A with electronic banking services, a so-called artificial barrier of entry is accordingly established for independent operators or bureaus offering similar services within the payments system. Whilst this barrier may not be established purposefully, it most certainly exists and is indirectly used (and potentially abused) as and when beneficial for the banks that operate and function within the payment system. The effect of this inter-relationship is that the bank in question has the prerogative to limit access and choice for the customer and end-user of the payment service (Company A). To illustrate the dilemma with reference to specific monetary values and costs, the following pricing may be mentioned: If Company A makes use of one of the banks internal "bureaus" (i.e. the internal electronic banking division of the bank), Company A (often also referred to as a "user" at Bankserve) will be charged approximately one-third of the cost that Company A will be charged if Company A makes use of one of the independent bureaus to access the exact same payment services directly via Bankserve. An example would be as follows: Using one of the banks' internal bureaus (i.e. the internal electronic banking division of the bank), Company A (i.e. the so-called "user" at Bankserve) may be charged approximately R100 per month, whereas if Company A decides and determines to submit their payment transactions via an independent bureau, then the fee may be as much as R300 per month, whilst there is no difference in the specific transaction processing and payment services provided to the end-user customer (Company A). A similar scenario can be identified in many of the banks without reference being made to any specific bank in question. Company A must open an account at a bank in order to obtain a so-called "user" code in order that Company A (the so-called "user" in question) may be provided with access to the payment system for collections and/or payment services, but the price at which that service is made available differs depending on whether the customer (Company A) purchases the service from an independent bureau providing the exact same processing service as the internal bureau or internal electronic banking division of a bank. .

As mentioned above, it is imperative to note that as an organization, CIBA unequivocally and beyond any doubt completely and without reservation supports the view that the continued management and control of the national payments system must have as one of its priorities the reduction and possibly the eradication of the introduction of so-called systemic risk. The

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organization specifically supports and is in favour of any directives and other measures that will ensure that risk is appropriately managed within the payments industry and the payments system for the benefit of all users, including the independent operators. However, with this unequivocal statement of support, the above example is provided within the context of current processes and procedures to indicate that access is not fair and equal and that artificial barriers of entry exist. In other words, the essence of this issue can be summarized as follows: It is currently possible to receive the exact same payment service at one-third of the cost if the access is facilitated by a bank bureau (i.e. R100) as opposed to an independent bureau (i.e. R300).

The above example is not provided and explained in such detail for any specific reason, since it is obvious that the monetary value on a monthly basis (i.e. R300 versus R100) is certainly not substantial enough to influence the strength of the commercial propositions on offer from the respective competing organizations, but it most certainly provides a clear indication of the lack of access or rather the preferential access that is afforded the banks within the payments system, thereby establishing artificial barriers of entry for other independent operators.

With specific reference to the comments and issues raised and discussed in the above paragraph, the following suggestions or solutions may be touted:

On the one hand, if the argument is upheld that it remains absolutely essential that the particular end-user customer in question (Company A) continue to open a bank account at a retail bank that is authorized, mandated and registered accordingly to offer payment services within the payments system (because the underlying view or assumption is also upheld that only banks are capable and/or have sufficient capacity to manage and control the introduction of systemic risk to the national payment system), then it would be the considered opinion of CIBA that access and the appropriate cost / price for such access should be more fair and equitable, with no differential as is currently the practice experienced by independent operators. Fairer and more equitable access would then remove so-called artificial barriers that are established because banks have traditionally received a degree of preferential access to the services offered by Bankserve as the industry systems operator.

Because the banks effectively manage the committees and sub-committees that regulate the industry, a substantial conflict of interest is evident in the practices experienced by independent operators within the payment system, as the above example clearly illustrates. Banks have traditionally been provided with custodianship of access, at what cost and on what terms. Under normal circumstances in any other environment, the above circumstances would clearly be considered a severe conflict of interest for the parties involved (i.e. the banks on the one hand and independent operators on the other).

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However, please note that the above assumption (i.e. that only banks are capable and/or have sufficient capacity to manage and control the introduction of systemic risk and therefore the end-user customer of the independent bureau in question (Company A) must continue to open a bank account with an appropriately registered bank) is clearly questionable based on the subsequent implications for anti-competitive behaviour, considering that the very same bank that opens the account for the end-user customer (Company A) is also the very same bank that offers the end-user customer of the independent bureau in question (Company A) electronic banking services that compete directly with the services offered by the independent operator, but at a cost of approximately one-third of the cost of the independent operator.

But the above example is merely one example of several, similar practices that effectively amount to the establishment of so-called artificial barriers of entry because of the preferential access to the payment services of Bankserve provided to banks within the payment system.

Another example, albeit it more complex to explain in layman's terms, is the breakdown of the pricing structure within Bankserve at a "per transaction" level. A standard, industry-wide price "per transaction" within the specific context of the payment services offered by Bankserve is once again very difficult, if not impossible, to determine. What is however evident is that without a standard price "per transaction" at Bankserve for the industry at large, other forces (i.e. market forces as well as other influences) determine the price at which Bankserve offers its payment services to a bank, or alternatively to a bank's internal bureau (the internal electronic banking division of a bank), and lastly to an independent operator (independent bureau).

However, it must nevertheless be noted that the issue at hand may not necessarily be the price per se, but rather what forces and other influences determine this price "per transaction". If the forces are so-called market forces then clearly no argument or further discussion is necessary. If however, the influences are not market forces alone, then further identification and discussion of these influences is required in order to determine the impact, if any, on competitiveness.

Therefore, as an introductory comment to establish some form of foundation from whence further discussion can emanate, it must be noted that on the one hand an independent operator may receive a particular price "per transaction" for payment services from Bankserve (e.g. R0,50 per transaction) whereas a second independent operator, or for that matter a bank, may receive a completely different price, sometimes less sometimes more, for the exact same payment services. Whilst this may at the outset raise concern insofar as it pertains to the problem or issue of equality of access and the potential for establishing artificial barriers of entry, the banks may argue on the other hand that this environment

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allows for the competitive landscape to determine the price at which access is provided. Whilst this may very well be true and favourable in a perfect, commercial environment, in the considered opinion of CIBA this is clearly not possible within the context of the current management and control of the South African payments system. The practical consequences of this approach is that a company of the size, nature, stature and financial reach a large South African corporate (typically a financial services company) (Company B) would be provided access to Bankserve so-called "direct". In other words, whilst Company B would still be required to open a so-called user account at a bank and have a user code registered at Bankserve, they would be able to submit their transactions "directly" to Bankserve without having to submit via an existing bank bureau or electronic banking division of one of the banks. In other words, the large financial services company referred to above (Company B) would have so-called preferential access (comparatively speaking) when evaluated against a smaller, independent organization with less financial reach and stature.

Furthermore however, it is noticeable that because of its size, nature, stature and financial reach Company B obtains a preferential price "per transaction" from the bank responsible for opening the account and obtaining the user code at Bankserve. In other words, it must be noted that in many instances this so-called preferential access translates to the exact same payment services offered by Bankserve to Company B at a cheaper price than that which is available to a newer, smaller entrant in the market, thereby entrenching established, vested interests and creating artificial barriers to entry for newer entrants in the market place. This clearly exacerbates matters for the independent operators.

The argument generally tendered in support of these circumstances that justify a lower "per transaction" price for Company B is based on the larger volumes processed by Bankserve on behalf of Company B. The bank acting on behalf of Company B, which is the same bank offering Company B the commercial banking services for the opening of the appropriate bank account and arranging for the so-called user code at Bankserve is prepared to offer Company B a substantially lower price "per transaction" at Bankserve. It may be justified on the basis of commercial, competitive, market forces. However, if this argument were upheld, then the system would consequently be structured in such a way that effectively derives a benefit for larger, established parties with existing vested interests, and necessarily inhibits, prevents and establishes a barrier to entry for smaller, newer entrants.

The obvious question that the above scenario solicits is why the price is less for greater volumes since processing capacity is directly proportional to the number of transactions. However, setting aside the less important issue of processing capacity and time in the modern context of computer hardware and software infrastructure, the more important question is to ask why the price for a larger company is lower than for a smaller company simply because they have lesser volumes. A classic example would be a company that has only 1000 transactions, but each transaction is R100,000 in value compared with a company that has

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100,000 transactions (larger volumes), but the value is R100 per transaction. The net monetary value is identical, and therefore it can be argued that the so-called systemic risk to the payments system in both instances is identical. Therefore, it is questionable why the price "per transaction" for the company with only 1,000 transactions of high monetary value would in some cases be several rand "per transaction" more expensive when evaluated against the company with 100,000 transactions of low monetary value, when the monetary value, and therefore the so-called systemic risk, for both companies in the above example is identical. This is yet another example of a lack of equality of access to the payment system, where criteria currently used in the payments industry to determine access at a price "per transaction" for payment services are neither standard nor fair and equitable.

But this leads to another important consideration, a statement often used, and in CIBA's opinion, often abused by the banking industry to justify unjustifiably high "per transactions" fees that prohibit and prevent broader and fairer access for all "stakeholders" and specifically independent operators.

It is alleged that transaction fees differ for smaller users because the risk (systemic risk) is greater and therefore the banks are justified in charging higher transaction fees when considering and evaluating and managing the risk of smaller companies accessing the payments system. It must be noted as mentioned above, that this remains an extremely contentious and important consideration. This argument centers around the premise that the banks retain custodianship for managing so-called systemic risk i.e. it is the banks' responsibility to ascertain, manage and limit the degree and extent of systemic risk in the national payment system. For this very good reason it is argued by the banks that they require security, surety and other forms of collateral from their customers, which collateral is directly associated with the value of the collections and/or payments made by their respective customers when using the payment services within the payment system.

Therefore, in terms of the above example, a customer that processes 1000 transactions at R100,000 per transaction would be introducing the same risk into the payments system as a customer that introduces 100,000 transactions at R1000 per transaction. Therefore the amount of security, surety and/or cash deposited at the sponsoring bank in question to cover and secure the risk introduced into the system would be the same in the case of both these customers.

What however transpires frequently is that banks inform customers that their price "per transaction" is higher than what may be available from other suppliers because of the introduction of so-called "systemic risk". It is the allegation of CIBA that from time to time when the competitive and commercial landscape proves to be difficult during a particular negotiation the banks avail themselves of terminology such as "systemic risk" (terminology that is clearly beyond the comprehension of the average man in the street) to justify quoting

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an increased price “per transaction”. It would be better for all parties concerned within the payments system, but most certainly beneficial for the end-user customer, if there was an absolute or universal or industry-standard price “per transaction” that is available and accessible at Bankserve in a transparent and open way for all involved in the payment system. Thereafter, risk would be a strictly, independent negotiation and evaluation between the bank and the end-user customer based only on risk criteria, without impacting on the price “per transaction” levied against the end-user customer for payment services offered by Bankserve. This scenario as described above would in the considered opinion of CIBA and its members create a landscape where difficult-to-understand terminology such as “systemic risk” and other payment system principles that are beyond the reach and understanding of the average man in the street are not abused within the context of the competitive landscape. The end result such a scenario or landscape would necessitate is improved and broader confidence in the payment system.

Lastly, the introduction of a so-called absolute or universal or industry-standard price “per transaction” as suggested above would also in itself require further substantial investigation in order to achieve a greater degree of transparency. In other words, if we accept the suggestion of a standard, industry-wide price “per transaction”, it will achieve greater equality of access, but further substantial investigation will be required in order to achieve greater transparency in addition to equality of access.

For the sake of the example, let us assume that the price “per transaction” for processing directly with Bankserve is R0,70 “per transaction”. For reasons explained further in the paragraph below, this would also inevitably lead to an unfair advantage for the banks involved in the payment system. Whilst the following information is unconfirmed and would therefore require subsequent investigation and confirmation by all parties concerned, it is the considered opinion of CIBA and its individual members that the fee of R0,70 is apportioned amongst the banks i.e. the entire fee is not for the account and benefit of Bankserve. CIBA concedes that this information will require further investigation for confirmation and/or correction. The purpose of these allegations is not to be accusatory in any form or manner, but rather is purposed at ensuring that whilst “risk” is better managed by all parties involved in the payments system for the sake of all consumers and the confidence in the payments system at a macro and strategic level, it is our continued prayer that greater transparency is achieved so that greater fairness can be established and broader access is the consequence for all “stakeholders” of the payments system. On occasion, CIBA has attempted to verify the apportionment of the Bankserve price “per transaction”, but to no avail. For some unknown reason, despite the best efforts on the part of CIBA, and despite the “Not for Profit” status of Bankserve, the substantiation, verification and correction of these allegations have been impossible since the reporting that would be required to do such verification has not been available for public scrutiny.

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Herewith a brief summation of the allegations pertaining to the apportionment of the Bankserve price "per transaction" that would require further investigation for verification and confirmation prior to acceptance thereof. Approximately 15% of the price "per transaction" is apportioned to Bankserve.

A further approximate 33% is apportioned as a so-called homing fee, which is accordingly allocated to the bank that possesses the so-called "retail-consumer-relationship" i.e. the bank that has opened the account for the consumer "from whom" the payment is made for the product and/or service purchased). This is apparently apportioned by means of the market share of the so-called "retail-consumer" accounts per bank. This would therefore imply that whilst the end-user customer in question (Company B in the above examples) (e.g. an example of such a company would be a large financial services company that is collecting premiums from their respective clients for the delivery of their insurance or other financial services related products) is paying a price "per transaction" for the processing of payment services by Bankserve, of which a portion of this price "per transaction" (R0,70 "per transaction" as per the above example) is being paid to the retail bank that possesses the "retail-consumers" account. It is assumed that this is done because the bank that holds the "retail-consumer" account must obviously process the transaction. However, it must be remembered that the individual "retail-consumer" pays a fee as a retail customer of the bank in question. Whilst this may be justifiable, and obviously it requires further investigation based on the broad ramifications of such a practice, it is possibly indicative of duplication, inasmuch as charges are levied on the one hand against the so-called "retail-consumer", but at the same time a portion of the price "per transaction" levied against so-called Company B in the example above is also for the benefit of the bank that owns the "retail-consumer-relationship".

Lastly, the sponsoring fee is then the balance of the price "per transaction" i.e. approximately 52%. The sponsoring fee is payable to the bank that is sponsoring the end-user customer (Company B in the above example) i.e. the sponsoring bank facilitates the registration of the end-user customer (Company B) as a so-called user with a so-called user code at Bankserve. However, take note that in certain circumstances the electronic data files containing the individual payment transactions are submitted "directly" to Bankserve without any intervention, human or otherwise, by the sponsoring bank in question (refer to the examples above in the case of Company B). In practice, no additional service is offered by the sponsoring bank in this scenario, since it would be impractical and humanly impossible to deliver any additional value-add service as part of the processing of such transactions based on the time constraints evident in the processes. Furthermore, take note that as mentioned above, no systemic risk is involved, because as per the example above, securities and sureties and other deposits of money in cash ensure that no risk is introduced to the system for any default or other rogue conduct. The above example, therefore once again, needs to be carefully investigated and whereas previous investigations and requests have failed to solicit any detailed response from the banks regarding the actual allocation of this fee versus the

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fees levied against individual "retail-consumer" accounts for payment services, CIBA is of the considered opinion that a more transparent disclosure of the make-up of these fees, would result in a broader industry-wide standard being established for access to Bankserve at a given, industry-wide price, so that the competitive landscape could be enhanced to benefit all participants of the payment system, including the individual consumer. CIBA's considered contention is that greater transparency will ultimately facilitate the removal of artificial barriers of entry, which will in turn increase and improve broader confidence in the payment system.

If broader access to the payment system together with greater transparency forms one of the foundational cornerstones of the National Payment System, then greater effort is required to facilitate negotiations with all stakeholders irrespective of size, nature, stature and financial reach. CIBA has attempted to interact with the banking industry for approximately two years, with little success, with little cooperation from the individual banks, and with little cooperation from industry bodies such as PASA and Bankserve. To date certain independent companies have achieved greater success with bodies such as Bankserve without any improvement in the degree of equality and transparency with regard to how these bodies facilitate such interaction, thereby further exacerbating issues of unfair access and barriers to entry. As mentioned above, it is possible for certain non-banks to achieve direct submission to Bankserve based on their size, nature, stature and financial reach whereas other non-banks with the exact same profile other than their size, nature, stature and financial reach are preempted and disqualified from such similar direct access.

It is impossible for any organization to "prove" beyond all doubt that the above allegations are true. However, it is certainly the perception and experience of the smaller organizations that it is in the interests of the banks to make it as difficult as possible to negotiate with them individually and collectively as an industry. Industry at large prefers the smaller organizations to negotiate with the electronic divisions of the banks themselves (for self-serving purposes). In this way commercial factors weigh on the smaller players and force them to comply with preferred processes within the banks. Once again, it is not the prayer of CIBA to determine processes and procedures at this micro level within the payment system. Each and every smaller independent, organization will comply with whatever process and procedure may be agreed by the industry, but it is most certainly CIBA's prayer that the playing field is transparent and equal in all respects, and that "perceived preferences" do not influence opinion and thereby give birth to a lack of confidence in the payment system, because the alternative is not worthy of consideration, namely transparency is sacrificed on the one hand, and artificial barriers to entry are established that polarize the payment system between rich and poor, those who know and those who don't, and lastly between those who have and those who haven't.

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