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**Subject: Consultation on proposal for a Directive of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features**

Dear Mr Barnier, dear Mr Borg,

Thank you very much for having consulted the EDPS with regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of data by the Community institutions and bodies and on the free movement of such data, and in particular its Article 28(2).

Given that the data protection-related aspects concerning the proposed Directive of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features are limited, the EDPS decided not to issue a formal Opinion pursuant to Article 28(2) of Regulation (EC) No 45/2001.

The EDPS welcomes the fact that any exchange of personal data of the consumer by the payment service providers in the "switching phase" is subject to the prior written and explicit consent of the consumer (Article 10(2)). Recital 24 also specifically

recalls the principle of necessity as regards the information sharing among payment service providers.

In our viewpoint, the proposal should however mention that the relevant EU data protection legislation remains fully applicable in relation to the obligations introduced by the Directive. Therefore, the EDPS suggests that a substantive provision be introduced, complementing recital 35, to confirm that the relevant legislation fully applies to all the processing of personal data to be carried out by payment service providers as a result of obligations introduced by the proposed Directive.

I have sent a copy of this letter to the European Parliament and the Council of the European Union as well.

Yours sincerely,

**(signed)**

Giovanni BUTTARELLI

Cc: Mr Jonathan FAULL, Director-General, DG MARKT  
Mr Mario NAVA, acting Director - Financial Institutions, DG MARKT  
Ms Paola TESTORI COGGI, Director-General, DG SANCO  
Ms Despina SPANOU, Director - Consumer Affairs, DG SANCO  
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Mr Paul NEMITZ, Director - Fundamental Rights and Citizenship, DG JUST  
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