

Which?, 2 Marylebone Road, London, NW1 4DF
Date: 1 May 2018
Response by: Which?

Written evidence to the Scottish Affairs Committee inquiry on the ATM network in Scotland

About Which?

Which? is the largest consumer organisation in the UK with around 1.7 million members and supporters, and of these, around 140,000 in Scotland. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

Summary and recommendations

- Which? is concerned that proposals from LINK, the UK's largest ATM network, which could result in widespread ATM closures across the UK have been allowed to proceed without sufficient scrutiny from the Payment Systems Regulator (PSR).
- LINK's consultation process lacked transparency and was narrow in scope and has raised serious concerns about underlying competition issues across the sector.
- LINK's proposed plan, combined with a worrying lack of transparency around its approach, has also created a high degree of uncertainty that may impact long-term investment in the sector.
- Despite assurances from LINK, independent operators continue to warn that the first ATMs to become financially unviable will likely be those in remote areas with lower footfall.
- Which? remains concerned about the impact of these changes on consumers and LINK's ability to guarantee the measures set out in its Financial Inclusion Programme.
- The PSR has a responsibility to protect consumers and promote competition in the market. Which? is calling on the PSR to urgently review the market for access to cash, in particular looking at:
 - Provision of free ATMs and the short and long-term implications of LINK's decision;
 - LINK's Financial Inclusion Programme to ensure it reflects the needs of consumers;
 - Long-term alternatives that are available to consumers if the removal of free ATMs continues to threaten access to cash.

Introduction

1. Which? welcomes the opportunity to respond to the Committee's inquiry into the ATM network in Scotland. It is critical that all consumers can maintain easy access to free-to-use ATMs and can continue to use cash, as for many, it remains their preferred and sometimes necessary payment method.
2. Cash remains the most widely used payment method in the UK. With 2.7 million people in the UK relying almost entirely on cash, ATMs serve a critical purpose in enabling many people to easily access their money free of charge, particularly small businesses, and those on low incomes, older people and those in rural areas.

3. Despite reassurances from LINK, we remain concerned that a reduction in the interchange rate could lead to widespread closures of machines across Britain. The interchange rate is the fee paid by card issuers every time a customer uses a free ATM and which funds the entire free-to-use ATM network. This is a particularly pertinent issue given the significant numbers of bank branch closures over recent years, leaving many communities struggling to access basic banking services.
4. The PSR has not yet looked in depth at the ATM network or access to cash, and its response to LINK's proposals has been limited, only saying that it "will continue to actively monitor developments"¹. It is concerning that such decisions are being waived through without sufficient scrutiny from the PSR, which has a responsibility to provide independent continuous scrutiny of UK payment systems, including charging for and access to ATMs.
5. The PSR outlined three requirements of LINK's proposals², including:
 - A commitment by LINK to do whatever it takes to protect the current broad geographical spread of free-to-use (FTU) ATMs;
 - That any cuts in interchange must be incremental and accompanied by close monitoring by LINK to understand the impact on the overall ATM estate – with action taken by LINK where the impact is not as expected; and
 - For a greater focus on the Financial Inclusion programme – to continue to fill gaps in the FTU network.
6. However, the PSR does not appear to have considered whether its three requirements on LINK are credible or achievable. There is strong evidence that they are not, as:
 - LINK's proposals are not just focused on reducing ATMs in busy city centres;
 - LINK's evidence of declining demand for cash is misleading and incomplete;
 - LINK's approach creates a high and unnecessary degree of uncertainty; and
 - The real driver of LINK's approach is the threat of banks leaving LINK, itself caused by major underlying competition issues.
7. In February 2018, Which? and the Federation of Small Businesses (FSB) launched the '*Save our cashpoints*' campaign in response to LINK's decision and are calling on the PSR to urgently intervene and conduct thorough analysis of the long and short term implications of LINK's decision and the future of ATM provision.
8. The PSR must take urgent action to protect consumers and conduct a market review, looking specifically at: the provision of free cashpoints and the short and long-term implications of LINK's decision; LINK's financial inclusion policy to ensure it meets the needs of consumers; and the long-term alternatives which are available to consumers if free cashpoints are removed.

¹ <https://www.psr.org.uk/news-announcements/PSR-responds-to-LINK-announcement-Jan2018>

² <https://www.psr.org.uk/news-announcements/PSR-responds-to-LINK-announcement-Jan2018>

The likely impact of the decision on the ATM network in Scotland on individuals, communities and businesses

9. It is very difficult to estimate how many, and which, ATMs are at risk of closure. However, the impact is likely to be most keenly felt in rural and deprived urban areas, where free-to-use ATM coverage is already poor, and where specific groups of consumers – notably older people and those on low-incomes, rely on cash³. The impact is likely to be considerable in many parts of Scotland. Given Scottish consumers have faced greater detriment as a result of bank branch closures, the ATM proposals are likely to also hit Scottish communities harder than elsewhere.
10. The threat of ATM closures therefore creates a high level of uncertainty and worry for consumers and communities. LINK's proposed plans have already led to wide-ranging estimates of the likely impact on total ATM numbers, including:
 - LINK's own advisers (KPMG) say that 8-18% of existing remote free ATMs could close;
 - LINK estimates closures of between 1-11%;
 - The PSR/Europe Economics estimates closures of between 0.3%-6.2%;
 - Cardtronics estimates up to 17,000 machines.
11. In 2018, Which? conducted a study of ATM provision across the UK and identified over 200 communities in Britain with poor ATM provision, or no cash machines at all, which might be hardest hit by proposals that could reduce the network. This includes over 130 Scottish postcode districts in constituencies including: Perth and North Perthshire; Edinburgh West; Berwickshire, Roxburgh and Selkirk; Ross, Skye and Lochaber; and Argyll and Bute. Our analysis of LINK data on over 70,000 cash machines across the UK found that 123 postcode districts did not appear to contain a single ATM, with a further 116 postcode districts with just one ATM, 37 of which charge a fee.
12. A 2018 Which? survey of 1848 members of the Scottish general public highlighted consumer reliance on cash machines with nine in 10 (89%) of people finding access to free-to-use ATMs important to their daily lives and needs. Overall, Which? found a heavy consumer dependency on ATM usage, with 52% almost two-thirds (62%) using a cashpoint at least once a week. Meanwhile, more than half (51%) describe them as essential for day-to-day living.
13. In addition, removing free-to-use access would leave one in seven (16%) struggling to make payments, shutting many consumers out from local shops and services. A reduction would also lead to one-fifth (22%) being deterred from using outlets that accept cash only, placing a strain on consumers and retailers alike.
14. Which? also found that one in five (19%) people living in rural areas said their nearest cash machine was already too far away to walk to. While one in seven (14%) of those surveyed say it takes at least half an hour to reach their nearest free-to-use cashpoint.

³ See Appendix I

How the impact on rural communities might be mitigated, and the adequacy of the proposal put forward to date

15. LINK has committed to “do whatever it takes to retain free access to cash for all communities” and that “no community will lose ATM access as a result of today’s announcement”⁴. However, Which? is concerned that LINK’s approach does not provide adequate protection for at-risk and remote ATMs and creates a high and unnecessary degree of uncertainty.
16. LINK has failed to present a transparent or robust framework for the protective measures outlined in its Financial Inclusion Programme. As a result, we remain concerned about LINK’s ability and power to enforce and guarantee these measures and ensure that consumers continue to be able to access cash free of charge.
17. LINK has also assumed a decline in consumers’ use of cash, and that overall the numbers of cash machines should therefore close. However, cash remains the most widely used payment method in the UK, with Bank of England figures showing a 10% increase in the demand for banknotes in 2016, representing the fastest growth in a decade.
18. LINK has said its proposals will reduce the number of cash machines in areas where there are too many ATMs, while securing the future of free ATMs and improving the geographical coverage of ATMs across the UK. However, LINK is not just proposing to reduce interchange in city centres, but is reducing interchange in all locations, with the small exception of ATMs that currently fall under LINK’s Financial Inclusion Programme (FIP) or are more than 1 km from the next free ATM. Such locations represent just 1,879 ATMs, less than 3% of the total LINK network⁵. Of these, only 200 are in Scotland⁶.
19. Given that the FIP was first established over a decade ago, Which? is concerned that it is not fit-for-purpose, despite claims from LINK that the FIP “has proven very successful in incentivising operators to provide free ATMs across the country”. Rather than specifically targeting city centres, the approach outlined by LINK threatens to reduce ATMs across the entire network – with independent operators warning that the first ATMs to become financially unviable will likely be those in remote areas with lower footfall.
20. Whatever protections LINK puts in place, there is still likely to be a widespread reduction in all other ATMs across the remaining 97% of LINK’s network, including remote and rural locations, and suburban and urban locations, many of which may be already under-served by ATMs. Which? is concerned that LINK cannot guarantee that its protections will work in practice. For example, simply exempting individual cashpoints from the interchange fee cut might not save them. If an operator has 50 ATMs in an area and the most isolated one is protected from the cut but the other 49 are not, then it might make the entire network route financially unviable.
21. Currently, there is no robust framework or system in place for identifying cash machines under threat, or assessing the level of subsidy that might be needed to ensure at-risk

⁴ <https://www.link.co.uk/about/news/link-moves-to-secure-future-of-free-atms/>

⁵ Source: LINK Consumer Council Annual Report 2017.

⁶ <https://www.link.co.uk/initiatives/financial-inclusion/>

ATMs remain open where they are needed. LINK has also committed to publicly monitor the impact of its proposals; report on free ATM availability; and highlight any areas where free ATM availability is lost. However, simply monitoring the detriment is not an acceptable position - consumers cannot wait for their access to cash to be removed before remedial action is taken, as it will be harder to replace ATMs once they are removed.

22. LINK's proposed plan combined with a worrying lack of transparency around its approach has also created a high degree of uncertainty. This includes wide-ranging estimates of the likely impact on total ATM numbers, highlighted by the wide-ranging estimates of machine closures from across industry. This high degree of uncertainty around LINK's approach is due in particular to:

- LINK retaining complete discretion as to the amount of the "financial inclusion" subsidy in any location; and
- LINK proposing four annual reductions of 5% in all other locations, each subject to further annual review.

23. Such uncertainty undermines investment. LINK's approach assumes that LINK can make incremental changes in interchange and then see what happens. The PSR also wrongly endorses this approach. On the contrary, ATM deployment depends on medium- to long-term certainty of the interchange fee-setting approach for the whole ATM network (given the associated investments and site contract lengths), plus economies of scale/scope of serving multiple locations - i.e. even guaranteeing the interchange in specific locations is not sufficient to provide investment certainty, if interchange is uncertain everywhere else.

24. LINK's decision has been allowed to proceed without sufficient examination from the regulator and as such Which? is concerned that the proposed measures fall short of what is required to adequately mitigate the impact on consumers and communities.

25. The PSR must:

- conduct a review of the scope and structure of the Financial Inclusion Programme to ensure that it remains fit-for-purpose and ask LINK to provide further clarity around proposed enforcement of the Programme;
- assess and examine a series of alternative models for funding the free ATM network, including the effectiveness of LINK's proposals for a reduction in the interchange fee, to determine the most appropriate approach/model to specifically address concerns about overcrowding in urban centres.

The effectiveness of LINK's consultation and decision-making processes

26. There was a lack of public consultation on LINK's proposals and a lack of transparency throughout the process. The absence of external submissions means that warnings from organisations like Which? and the FSB as well as those who might be directly impacted by reductions were excluded and ignored. Additionally, the consultation itself was worryingly narrow in scope, providing one measure for addressing concerns about urban ATMs, rather than a selection of proposals.

27. We are concerned that the real driver of LINK's approach is threats from banks to leave LINK, itself caused by underlying competition issues. In its consultation, LINK said that "doing nothing" was not an option, as this "could cause some card issuers to leave LINK for schemes such as VISA and Mastercard". This is because Mastercard and Visa have recently cut their ATM interchange fees to c.30% lower than LINK's, apparently in a bid to get banks to leave LINK for Mastercard or Visa.
28. This driver for the proposed changes is a major cause for concern as it shows that LINK is not acting in the interests of consumers, as it claims, but chiefly responding to commercial pressures and threats. These pressures also imply potential competition issues which the PSR has a statutory duty to look at in order to understand whether such commercial pressures are operating in the interests of consumers.
29. First, the setting of multilateral interchange fees in payment systems (including ATMs, credit, and debit cards) has been found to be anti-competitive by multiple competition authorities, including the CMA and European Commission, except and unless certain conditions are met in the way interchange fees are set.
30. Second, competition regulators have also challenged many other payment scheme rules, in particular, rules that limit the ability of scheme participants to set end-user prices, including in various UK and EU rulings. In the US, consumers and ATM operators are currently pursuing major class action lawsuits against the major banks, as well as Mastercard and Visa, alleging conspiracy to raise ATM access fees⁷, which have risen rapidly to almost US\$5 per cash withdrawal⁸, as a consequence of alleged anti-competitive payment scheme rules. The US Department of Justice has intervened in strong support of the complainants in these cases. Some of the same Mastercard and Visa ATM scheme rules challenged by US regulators are also applicable in the UK.
31. The PSR admits that "there are a range of pros and cons associated with competition between LINK, Mastercard, and Visa"⁹ and the PSR's own recent independent report recommends the need for the PSR to "further develop its own understanding of the potential forms that ATM-scheme competition could take, and its associated implications."¹⁰
32. The PSR has a duty to promote competition among payment networks, and as such it should investigate whether the rules that exist in the UK are having anti-competitive effects on the payments market, and if they were an underlying factor in LINK's interchange fee reductions.
33. The PSR should urgently investigate and analyse the underlying competition issues impacting the sector as well as assessing the implications of these on LINK's decision and consumers more widely.

For more information, contact Genevieve Lloyd, Campaigner at
May 2018

⁷ See *Osborn et al v Visa Inc et al*, United States Court of Appeals FOR THE DISTRICT OF COLUMBIA CIRCUIT, 2015.

⁸ See "US banks squeeze record ATM fees from customers", Financial Times, October 2017.

⁹ Letter from Hannah Nixon to Rt Hon Nicky Morgan MP, 15 January 2018.

¹⁰ "Exploratory analysis of the prospects for, and potential impacts of, ATM scheme competition", Dr Chris Decker, January 2018.

Appendix I: Comments from Which? supporters in Scotland

"My two nearest banks have closed and I now have a 42 mile round trip to get to my bank... and now they are thinking of fewer cash machines!"

"There is only one cashpoint left in my local village. If it goes it will cost me in either cash for the bus (not cheap these days) or petrol and parking charges if I have to go to my nearest city, Glasgow."

"I live north of Inverness and banks are closing in our villages despite the fact that there are a huge number of houses being built. They are also taking away the cash machines. We received letters from one of the banks saying how wonderful they are because they will teach us all to do online or phone banking, but what happens to those who don't want to do that or don't have a computer? Amazingly, not everybody does!"

"Troon, Ayrshire is a prosperous, medium-sized town of some 16,000 inhabitants and yet we have lost three bank branches in one year and with them their cash machines. While other ATMs are still available in the town one wonders how many more are in danger. The closing of my bank in the town is a real inconvenience. Cheques paid in via the post office take a week to appear in the account. How businesses pay in their cash must also be a problem. I am supposed to drive 7 miles now to go to "my" branch. It's called service."

"I heard about this but I was dreading it taking place. I'm disabled and I need the cash point nearby or else I have to travel by bus six miles. So come on, give us a chance. It's not only that we live out by the country - we have two cashpoints already taken away by our bank from here."

"First we lost the local sub-post office and then the only bank branch, which had an external ATM. The building was reconfigured to retain the ATM but then sold to a private buyer. The ATM experienced a fault, which was not repaired for several weeks and until representations were made to the bank's head office, including a direct letter to the CEO from our MP. The excuse was that 'access to repair was denied'. We still don't know what this means. There is another ATM at a mini-supermarket but it seems to be prone to breakdown. For the time being there is an ATM service, but recent experience suggests that future is uncertain."

"I'm disabled and the only cash point we have here is the one in the only shop we have left in the village. Thank God we have a car, because I can't go on buses due to my ill health so I pray they leave the cashline we have. Apart from the one in the shop the next ones at Falkland, 3 miles away, or Muchty, 2 miles away - apart from that, 7 miles to Glenrothes. There's no way I'm using my bank card all the time, we get muddled how much money we've spent in our current account. We have a current account, a saving account and a joint account, usually we don't keep a lot of cash in our current account as it's for buying groceries, so we need to take out money and check the bank at the cashline to see how much we have left in the account. We need our cashline machines, please keep them."

"I live in a small village with no amenities. Two local banks, in two local villages, are going in May 2018, taking cash machines with them. Only one large village will have supermarket ATMs. Will they be free? Otherwise there is no local access to cash. I hasten to add our local butcher does not even take cards or cheques, cash only. NIGHTMARE!"

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