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Consumer Welfare in Digital Payments

To make recurring digital transactions safe and secure, the Reserve Bank of India (RBI) issued a circular in August 2019, enforcing the mandatory requirement of e-mandates for recurring payments. However, non-compliance with the circular, of which the deadline is September 30, 2021, by the banking industry could adversely impact consumers, which may disincentivise them to move away from using digital payments, consequently affecting Digital India mission. Thus, efforts by the RBI are required so that consumers continue to utilise the benefits that digital payments offer.

This Policy Paper aims to highlight relevant consumer issues in the digital payments ecosystem and recommends the following way forward for the RBI:

- Undertake a detailed examination of the impact in case of non-compliance with the RBI circular.
- Inform and involve consumer groups towards policy design and implementation.
- Make additional factor authentication optional for consumers. Balance convenience and security without compromising one at the cost of the other.
- Rationalise the compliance requirements, including the ability and readiness of the stakeholders to comply.
- Periodic updates on compliance status to ensure transparency and accountability.
- Extend the circular deadline until March 31, 2022.
- Remove recurring cross-border payments from the ambit of the stated circular without adding significantly to the costs.

Background

In its Annual Union Budget 2017-18, the Government of India recognised the digital economy as one of the central themes to establish accountability, speed, and transparency in the system and was centred around promoting digital payments towards a less-cash society.[1]

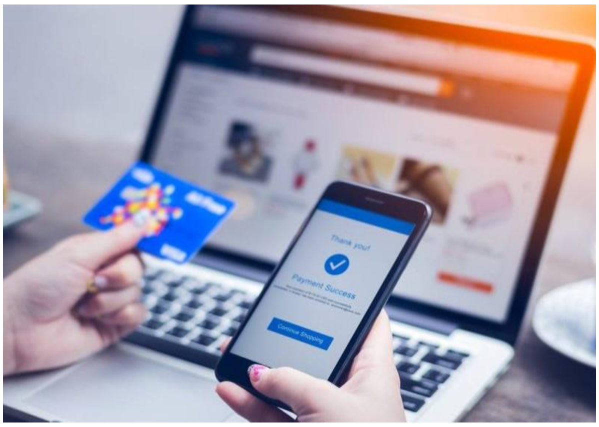
This shift towards digital payments was largely facilitated by the government's decision to withdraw 500 and 1000-rupee currency notes and launch the Unified Payments Interface (UPI).[2] As the government intends to achieve US$1tn economic value from the digital economy by 2025, digital payments are slated to play a critical role in this effort.[3]

According to a report by Mckinsey, the financial services sector as part of India's digital transformation could go up to US$170bn or as much as 170 times by 2025.[4] In digital adoption, India is the second-fastest country amongst 17 major digital economies.[5] It is estimated that India will have more than 900 million internet users by 2025. Still, as of March 2021, the country already has about 825 million internet users,[6] which signifies an increasing adoption and penetration of the internet and smartphones.

This has further accelerated digital payments in India and is expected to clock a robust growth with a 27 percent compound annual growth rate (CAGR) between 2020-25, which would make about 7,092 lakh crore transactions by 2025.[7] The recurring payments will contribute significantly to this potential growth.

India has over 97 crore debit and credit card users, with over 1.5 crore daily transactions worth Rs. 4000 crore, signifying that the consumers increasingly rely on debit and credit cards for online transactions, including recurring payments. Indians are increasingly using recurring payments towards paying monthly bills, insurance premiums, and investment in mutual funds and other savings, school fees, including cross-border payments, among others.

Most importantly, India's expenditure on entertainment and digital media subscriptions has doubled over the last three years. Similarly, the merchant (who offer services which require recurring transactions e.g. OTT platforms etc.) demand for subscriptions has also grown manifold in a



few months, indicating robust ever-growing demand for both businesses and cardholders for recurring transactions.[8] However, the growth and potential in digital payments could be threatened by regulatory actions that may likely create friction in the digital payments ecosystem, disincentivising consumers.

RBI Circular

In August 2019, the RBI issued a circular on the processing of e-mandates on cards for recurring transactions (RBI circular) to balance the safety and security of card transactions with customer convenience and had the right intent.[9] The circular intended to provide more information and agency to consumers; obtain their consent for initiation and change of e-mandate conditions; impose a financial cap on recurring transactions without additional factor authentication (AFA), among other things.

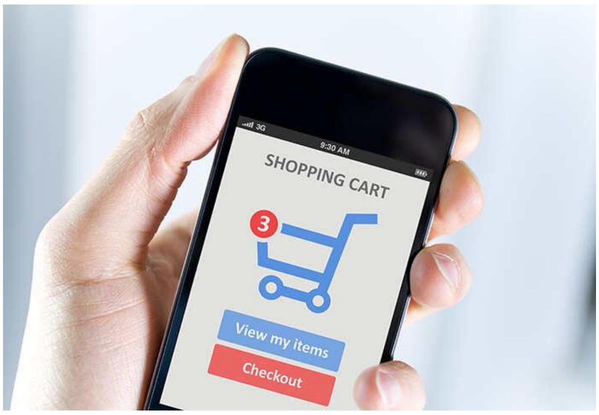
The circular had initially set a deadline of March 31, 2021, for migration to the new framework. However, as stakeholders expressed their inability to meet this deadline, the RBI extended the timeline to ensure full compliance until September 30, 2021, as a one-time measure. This meant that existing consumers would not be able to continue to benefit from the frictionless e-mandate framework for recurring transactions, beginning October 01, 2021, if conditions of the circular were not met.

Many banks have been notifying customers that their payment transactions could fail from October 01, 2021, as the payment service providers have not complied with the circular.[10] Similarly, according to news reports, certain private banks are reported to have complied with the circular, without any indication on the readiness or compliance by state-run banks or merchants, which is further adding to the confusion on industry readiness, including concerns of the consumers.[11]

The inability of payment service providers to shift to the new framework by September 30, 2021, will affect existing consumers as they will have to make additional efforts in making recurring payments, or will be forced to choose other modes of recurring payments (subject to availability). It has been estimated that monthly transactions worth INR 2,000 crore will be impacted if stakeholders cannot comply with the conditions on time.[12]

CUTS Initiatives

Given the above background and context, Consumer Unity & Trust Society (CUTS International[13]) undertook an awareness generation campaign to evaluate the impact of the RBI circular on consumer welfare. To this end, CUTS wrote an open letter to the RBI[14] illustrating concerns and impact on consumers from the RBI circular.



Additionally, CUTS organised a roundtable conference titled ‘Evaluating Consumer Welfare in Digital Payments’ to evaluate consumers' welfare concerns.[15] The roundtable was attended by several subject matter experts in digital payments, consumer protection, legal, regulatory, etc., which discussed the nuances to the regulatory approach in making consumer welfare inclusive in digital payments, focusing on the RBI circular. The roundtable deliberated the following issues, based on which recommendations were also made:

Findings and the Way Forward

Inclusive Policy Making and Stakeholder Consultation

Consumers are amongst the key stakeholders that would be adversely impacted in case of non-compliance of the RBI circular by the banking industry as recurring payments towards utility bills, insurance, fees, including cross-border payments, among others, could fail. However, RBI did not make consultations with consumer groups towards the design and implementation of the RBI circular and highlighted the consequences of non-compliance of the circular on consumers, including grievance redress mechanisms. Moreover, the regulator seems to have made assumptions, devoid of evidence, if consumers prefer security over convenience or vice versa.

The regulator needs to undertake a detailed examination of the impact on consumers due to non-compliance with the circular by engaging consumer groups. As the RBI has prohibited registration of new mandates since April 2021, without compliance with the circular conditions, new consumers are already facing the brunt as they are unable to make any recurring transactions.

Further, reports suggest that many merchants have started discontinuing trial and monthly packs for subscription services and have started shifting to long-term quarterly and yearly packs.[16] This has increased prices for such services, making them costly for low-income consumers and turning them away.

It appears that, on the one hand, the RBI has presumed that consumers are capable of using alternate modes of digital payments. On the other hand, the RBI has no confidence in consumers' ability to choose the limit for additional factor authentication. This negative approach towards consumer capabilities without engaging with consumers and consumer groups should be revisited. In addition to taking measures that make the digital payments ecosystem secure, the RBI should also take initiatives to enhance the capability of consumers, which further enables them to make informed choices.

In effect, the RBI is making choices for consumers to shift to specific modes of digital payments without any assurance that consumers will not rely on risky intermediaries or move away from digital payments.

The absence of regulatory initiative in generating awareness and building capacity of consumers to deal with the aftermath of non-compliance, if any, by the banking industry of such circulars is not in the favour of the consumers and future of digital payments. **Therefore, the regulator should have a re-look at the circular through a consumer lens. It should undertake a detailed examination of the impact on consumers due to non-compliance with the circular. Further, more importantly, the regulator should appropriately inform and involve all key stakeholders, including**

consumer groups, in understanding the challenges, if any, towards its implementation. It should also engage consumer groups and take their feedback in policy design and implementation.

Dichotomous Issue of Security and Convenience

The RBI circular intends to balance the safety, security and convenience of transactions.[17] However, a deep analysis of the circular with that of its intent seems to be countervailing. Online transactions are convenient for consumers as it instantaneously settles payments. When a consumer chooses to pay for a service on a recurring basis, it implies that the consumer has an inherent trust in the digital payments ecosystem while benefiting from the convenience that recurring payment offers.

However, without rationalising the risks associated with recurring payments, any AFA requirement process could make the process cumbersome and generate friction in ease of use. **An additional factor authentication must be made available to consumers as a voluntary option if the consumers choose to benefit from the added layer of security.**

Rather than prescribing technology for ensuring security, the regulator should promote innovation. Already, tokenisation is being experimented with as a convenient and secure way of digital payments. The RBI should work with stakeholders, particularly consumers, to ensure the seamless implementation of safe and convenient innovations for digital payments.

Any regulatory design that makes consumers choose between convenience and security, despite the possibility of mechanisms that offer both, could disincentivise consumers. According to experts, a delay in completing a transaction by 110 seconds makes consumers abandon the process. As a result, consumers would either abandon the transaction altogether or choose cash as an alternate mode of payment.

This could detrimentally affect consumers' shift from the cash-dominant economy. Most importantly, consumers have varying risk appetites and such avoidable frictions would exacerbate and disincentive a large segment of the population of digital payment users. These may include first-time consumers and consumers from disadvantaged groups, such as visually impaired groups, among others.

Irrational Compliance Burden

The RBI circular, which extended the deadline, states that, "*keeping in view the requests of some stakeholders and to prevent any inconvenience to customers, it has been decided, as a one-time measure, to extend the timeline for ensuring full compliance to the framework till September 30, 2021.*"[18]

Although the RBI recognised the inability of the stakeholders, specifically the banking industry, to fulfil the circular conditions and potential adverse impact on consumers, the RBI did not take any affirmative steps to showcase industry readiness in compliance or provide the real agency to the consumers.

The compliance requirements under the RBI circular have burdened the banking industry with setting up infrastructure for third parties (merchants and payment service providers), without any incentives available therein for the banks. It is also vital to examine if banks are best placed to set up the desired infrastructure. Other market players, particularly merchants, are likely to have an incentive to set up secure recurring payment infrastructure. The RBI needs to move away from entity-based regulation and adopt risk-based regulation by conducting a rigrous risk and cost-benefit analysis of proposed regulations. Similarly, RBI must ensure a level playing field between banks and other relevant players in the ecosystem.

Moreover, the RBI has failed in articulating the technical consequences on the safety and security of transactions due to non-compliance with the circular. In exercising its powers, the RBI circular comes across as an example of an irrational regulatory compliance burden, which unnecessarily increases costs and concerns for consumers across the payments system.

The RBI must rationalise the compliance requirements under the circular, including the ability and readiness of the stakeholders to comply with them. It is pertinent to appropriately incentivise the stakeholders to create new governance structures, crucial to facilitating digital payments' growth. Keeping this in view, the RBI must extend the circular deadline until March 31, 2022, and ensure that it must engage stakeholders to understand compliance challenges in exercising its powers. Similarly, periodic updates by the RBI on the status of compliance by the banking industry would ensure transparency and accountability, including addressing any challenges towards compliance.

Cross-border Recurring Payment Issues

Many individuals and firms subscribe to services offered by overseas merchants, such as accessing journals and courses for up-skilling and enhancing knowledge. For services requiring recurring transactions, the RBI circular mandates overseas payment service providers to comply with AFA requirements and send out a notification to banks who may inform consumers 24 hours before the transaction.

The overseas payment service providers may have little incentive to carry out such compliance requirements. Therefore, the circular could force consumers to opt for more extended duration subscription plans, thus severely affecting individuals, start-ups and MSME firms, as such services could be financially unaffordable to these stakeholders.

In this regard, **the RBI must remove recurring cross-border payments from the ambit of the stated circular until the compliance, as required, has been widely adopted by the industry without significantly adding to their costs.** The interest of the consumers who are increasingly using overseas payment service providers must be evaluated and addressed by the RBI to avoid creating unintended consequences.

[1] http://cashlessindia.gov.in/Union_Budget_(2017-18).html

[2] Demonetisation to power 80% rise in digital payments, may hit Rs 1,800 crore in 2017–18, Times of India, November 04, 2017.

[3] Ministry of Electronic and Information Technology. 2018. India's Trillion Dollar Digital Opportunity. Government of India.

[4] https://www.mckinsey.com/~/media/mckinsey/business%20functions/mckinsey%20digital/our%20insights/digital%20india%20technology%20to%20transform%20a%20connected%20nation/digital-india-technology-to-transform-a-connected-nation-full-report.ashx

[5] Supra Note 3

[6] https://www.business-standard.com/article/economy-policy/internet-users-up-nearly-4-to-over-825-million-in-q4-of-fy21-trai-data-121082701105_1.html

[7] https://www.financialexpress.com/industry/banking-finance/digital-payments-india-pips-china-us-others-in-2020-leads-global-tally-with-this-many-transactions/2226074/

[8] https://razorpay.com/newsroom/razorpay-mastercard-launch-mandate-hq-a-safe-secure-recurring-payment-interface/

[9] https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11668&Mode=0 The circular is applicable to payment modes such as credit and debit cards, UPI, but not net banking.

[10] https://www.timesnownews.com/business-economy/personal-finance/article/how-your-auto-debit-payments-will-change-from-october/816981

[11] https://economictimes.indiatimes.com/industry/banking/finance/auto-debit-rule-icici-axis-and-hdfc-assure-continuity-of-services/articleshow/86468844.cms

[12] PwC, Card on file and recurring transactions: Impact of regulatory guidelines, April 2021

[13] For details of CUTS Centre for Competition, Investment and Economic Regulation, see https://www.cuts-ccier.org/

[14] https://economictimes.indiatimes.com/industry/banking/finance/banking/view-dear-rbi-don't-make-digital-payments-difficult-for-consumers/articleshow/86357889.cms

[15] https://cuts-ccier.org/evaluating-consumer-welfare-in-digital-payments/

[16] https://inc42.com/buzz/amazon-prime-cancels-monthly-subscriptions-in-india-to-meet-rbi-norms/ and https://www.medianama.com/2021/05/223-google-recurring-payments-play-store/

[17] Framework for processing of e-mandates for recurring online transactions, Reserve Bank of India, Government of India, accessed September 24, 2021, https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11668&Mode=0

[18] *Framework for processing of e-mandates for recurring online transactions, Reserve Bank of India, Government of India, accessed September 24, 2021, https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12051*