

## FEEDBACK FORM

Name of undertaking:

Koninklijk Horeca Nederland  
(Royal Association of Entrepreneurs in the Horeca and related industries Horeca Nederland)

Industry (network, current/potential acquirer, current/potential issuer, processor, other third party provider (e.g. merchant service provider), merchant (industry needs to be specified), other):

Association of merchants (entrepreneurs) in the Horeca sector, which includes businesses such as Restaurants, Hotels, Bars/Pubs, Fastfood, Discotheques, Holiday-resorts.

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THE NETHERLANDS

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Participated in the questionnaire:

- Yes
- X No

Specific questions from Executive Summary:

### A. Financial analysis of the industry

1. Are high merchant fees a competitiveness issue for the EU economy?

*Definitely.*

*The Royal Dutch Horeca Association is a branch organisation with 20,500 members, representing between 50 to 60% of all entrepreneurs of the Dutch horeca sector*

(restaurants, hotels, bars, discotheques, recreation parks). Even though financial services (i.e. the transfer of money) is not a core activity, it is of essential importance to horeca entrepreneurs. Although the major part of payment transactions in the Horeca involves cash payments, electronic money transfers (payments through debit and credit cards forming a major part) are becoming evermore important. The number of payments through payment cards in the Netherlands, especially the local debit card (PIN,) keeps growing steadily. In the future we only expect these numbers to grow.

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*The Commission's interim report has confirmed the feeling amongst members of the Royal Dutch Horeca Association that:*

- *The entrepreneur is landed with the costs of paying through payment cards*
- *The consumer does not pay anything, or hardly nothing, for paying with payment cards*
- *There are a few players in the market who seem to determine the fees. There is practically no room for negotiation.*
- *It is unclear in which way merchant fees are established. Also it is unclear which costs are involved for the card issuing and card accepting parties.*
- *There is a suspicion that for banks, and other organisations that issue or acquire cards, payment cards are a most lucrative business.*

*In the case of Dutch horeca entrepreneurs this especially applies to credit cards.*

*In the case of debit cards several changes have taken place since 2004. Contracts concerning the acquiring of debit cards are no longer signed by just one acquiring party (the largest Dutch Banks being the joint shareholders of this party), but can be freely negotiated with banks. The judgement of the Dutch competition authority (NMa) with regard to the merchant fees for the acquiring of debit card payments also has had a considerable impact. For that matter both facts are mentioned in the interim report.*

*In case it turns out, as according to our view is to be expected from the interim report, that the (high) fees charged to entrepreneurs for the acquiring of payment cards are the result of insufficient competition, that conclusion implies a significant problem for the EU economy. Contrary to claims of some parties, entrepreneurs cannot pass on all charges to their customers. For instance, it is impossible to explain to a customer that he is charged an additional 10 eurocent for the coffee he has just consumed, because he chooses to pay by debit card.*

*In case the final conclusion of the commission is that entrepreneurs, and especially small entrepreneurs, are confronted with the bill of the payment cards, it would restrain the development of small and medium-sized firms in the Netherlands and Europe. Reaching that conclusion it should be taken into account that the sector of small and medium-sized firms are the backbone of Dutch, and probably European, entrepreneurs.*

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2. Are there compelling justifications for the comparatively high level of merchant fees observed in some parts of the EU25?
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*In our opinion it can be concluded from the interim report that there are no, or hardly any, such justifications. Of course there are differences between the markets for payment cards in the various countries. Especially where the “old” EU-15 countries and the “new” EU-countries are concerned. And also there are (technical) differences between local payment card schemes.*

*In our opinion it is especially difficult to justify in the case of international schemes (such as Mastercard, Visa), whose money transfers involve huge amounts throughout the world, whose organisations have been existing for decades and also for decades have been present in the European market, and whose standards, protocols and technical systems to a very large extent are similar in all countries, that:*

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- entrepreneurs have to pay such high fees which are nearly always higher than the merchant fees for local debit card products;*
  - merchant fees differ that much between the various countries.*
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*In view of our members it is inexplicable that the fee entrepreneurs pay the acquirer for processing the credit cards should always form a percentage of the amount involved in the transaction.*

*The interim report has confirmed our member’s suspicion that large companies (according to the report fuel companies and wholesale trade companies) seem to be able to bargain more favourable fees for processing credit cards. Horeca entrepreneurs in the Netherlands can also receive a “discount” on the merchant fees depending on the turnover evolving from credit card transactions. However, it can be concluded from the report that large companies are structurally able to bargain lower fees!*

*Even more peculiar is the fact that the report establishes that different fees are applied to different sectors, standing out negatively the hotel- and restaurant sector. In our view such differences cannot be justified in any way.*

*Unfortunately, it is not possible to deduce for each individual country the differences between the tariffs for large and small companies and the fees between the different sectors. This means that at this moment one cannot but make general remarks on this matter.*

*Where as credit cards are concerned it can be concluded from the interim report that small entrepreneurs pay the bill for the processing of credit cards and within the group of small entrepreneurs, especially the horeca sector (through its restaurants and hotels), is landed with the costs for credit cards.*

*It is the opinion of the Royal Dutch Horeca Association that the results of the interim report should in any case give cause to a more profound inquiry into the establishing of the merchant fees for the processing of credit cards and especially into whether or not this limits competition in an improper way or not.*

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- 3. In view of the apparent profitability of card issuing, is there a generally applicable justification for substantial revenue transfers through interchange fees in card payment systems?*

*In our view there is not.*

*The interim report establishes that card issuing is by far the most lucrative activity where as payment cards are concerned. It can be concluded from the interim report that this is due to interchange fees. In theory, and several respondents have indicated so according to the report, interchange fees would be necessary to cover the costs of card issuing, enabling in this manner that sufficient cards are issued.*

*Undoubtedly card issuing involves costs. However in our view these costs should be primarily covered by charging the costs to the card-holder. For that matter it is not a bad idea if the card issuing party would also take care of part of the costs. In the Netherlands banks keep claiming that paying electronically is much cheaper and that it should therefore be encouraged that cash payments are replaced by electronic payments, referring to it as 'the war on cash'. If banks are confronted with high costs due to cash payments, they should be prepared to invest in promoting electronic payments and be prepared to take care of part of the costs of card issuing.*

*In our view analysis of the report shows in any case that generally speaking the interchange fees are far to high and not only do they cover the costs, but also yield excessive profit.*

*We find that the use of interchange fees is fundamentally improper for two reasons:*

- Card issuers become lazy. Since card issuing is a lucrative business, it does not urge card issuers in any way to work in a cost efficient manner;*
- It can be observed from the report that in fact the entrepreneurs are landed with the interchange fee through merchant service charge. That is remarkable for it is not the entrepreneur who is involved with the card issuing. He does not issue the card (in most cases the bank), nor does he receive the card (consumer). It is peculiar that a third party should be burdened with the costs, while these costs should really be paid for by two other parties (bank and consumer).*

*Moreover, in our view it becomes apparent from the report that it is questionable if interchange fees are necessary at all.*

*Take for example the Dutch debit card product (PIN), for which no interchange fees are charged, but nonetheless the system operates well. The costs charged to entrepreneurs in the Netherlands for the processing of debit cards are relatively small.*

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4. Are the high profits observed due to innovation or do they arise from some kind of market power in a two-sided industry?

*It certainly seems that the high profits arise from a market power in a two sided industry. If innovation were the principal cause of the profits, interchange fees would be of no, or of minor importance where as the issuing of cards is concerned. It can be observed from the report, however, that in 20 of the 25 countries at issue the interchange fees contribute in an important manner to the profits arising from the issuing of payment cards.*

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5. What pricing practices, rules and legal provisions distort price signals to consumers and the choice of the most efficient payment instrument?
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*The fact that some parties have to pay the costs of a certain payment instrument and other parties do not, is distorting.*

*Every payment instrument (cash, debit card, credit card, e-purse, internet payments) involves costs. It is a fact that paying costs money. However, these costs differ.*

*The right signals should be sent to the right party, in order to choose the most efficient payment instrument at the given moment of payment.*

*In the Netherlands paying by credit card is, in most cases, the most inefficient way of paying. The fact that a consumer does not have to pay transaction costs for each credit card transaction does not encourage choosing a different payment instrument. The same applies to cash payments. The withdrawal of cash does not involve costs for the Dutch consumer. Why should he not pay in cash than? For cash does not cost anything as far as the consumer knows.*

*The entrepreneur, however, is confronted with the costs of the consumer's choice from payment instruments. If the consumer thinks it does not cost anything you can hardly blame him for choosing a certain payment instrument. In most cases, however, it is the entrepreneur who is confronted with the costs of a certain choice of payment. And that is exactly why in the Netherlands it is practice to charge a consumer when using a debit card for amounts smaller than 10 or 15 euro.*

*The fact that in some card systems contractual rules forbid the entrepreneur to charge the consumer with the costs of the product of payment (surcharge,) does not contribute to choosing the most efficient way of paying at the moment of payment, either.*

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6. Would cost-based pricing promote the use of efficient payment instruments and how could such pricing be implemented?

*In our opinion it would.*

*In an ideal world the choice for the most efficient payment instrument would lead to a win-win-win situation. That is for banks, entrepreneurs, as well as for consumers. It remains, however, important to encourage to keep lowering the costs. It is also important that in the cost calculation all costs are included. That is not only the banks' costs, but also, for example, the entrepreneurs' costs. In that case the most efficient form of payment is determined by the "social" costs related to the form of payment.*

*Where cost-based pricing is concerned, we find that, the basic assumption should be that 'the payer pays'. In other words, the party choosing the payment instrument should pay the costs.*

*How should such a cost-based pricing system be implemented?*

*Cost-based pricing will imply that, contrary to the situation at present (in any case in the Netherlands), the consumer will more often be confronted with the direct costs of payment instruments. Costs that will be mostly charged for through banks. This results in a "first-movers-dilemma" for the banks. The bank that is first to implement cost-based pricing will loose clients to banks that do not (yet) implement it.*

*In our view quite possible is therefore a transitional model like the one employed in Norway, the country that already switched over to a system of cost-based pricing in an earlier occasion. Agreements are made on the moment of implementation of the cost-based pricing, but no agreements are made on the specific tariffs/fees.*

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7. Do currently existing pricing practices have a substantial negative effect on cross-border card usage by consumers?

*As far as we know they do not.*

*Knowing the fact that consumers are not, or hardly ever, confronted with the costs of products of payment, the use of payment cards abroad at this moment will barely be restrained.*

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## **B. Market structures, governance and behaviour**

8. What market structures work well in payment cards?

*According to the report it looks like a payments market in which several providers collaborate to come to a joint infrastructure may lead to the necessary increase in scale and cost efficiency, which may offer advantages to all parties.*

*It can be observed from the interim report that a number of countries have been most successful in mounting cost efficient debit card products. It remains remarkable that such a system evidently forms no possibility for international credit card systems.*

*In our view the report makes clear that the obstruction of other parties to enter a joint system of payment should be prevented. Since the report also observes that where 'locally' some countries have mounted very successful systems, it is especially from outside the country at issue, hardly possible, or not possible at all, to join the local payments market. The danger of restraint of competition is than lurking.*

*Preferably this distortion of competition should be prevented by self regulation. In case that should turn out not to be possible a national or European authority or competition authority should interfere.*

*In short, a free market with sufficient (preferably internal) supervision/governance.*

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9. What market structures do not appear to work well / deliver efficient outcomes?

*See above (B8).*

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10. What governance arrangements can facilitate competition within and between card payment systems?

*The structure, or governance, of card payment systems has to be such, that all participants have an "equal say". With regard to that we were surprised by the rules of governance that seem to rule within a lot of payment card systems. In our view it is curious that there should be differences between sorts of membership, especially in case this implies that to these different sorts of membership, different sorts of voting rights/participation apply, or even that some sorts of membership are excluded from the decision-making process. Even*

*more so were we surprised by the fact that in some systems it is apparently common practice that a member is subordinate to a “primary member” and that it should even put company information at the “primary member’s” disposal.*

*In order to promote competition all members/participants of a payment card system should be equal and should have an equal say. It is conceivable that voting rights/influence partly depend on the size or scale of a market share of a member/participant. Also in itself it is imaginable that an equal say may lead to practical objections within the big international systems (like Mastercard or Visa). However, there are democracies with over 20,000 voting members that have found solutions to this problem over the passed ages without affecting the governability of the country at issue. In short, practical problems can be overcome through the right checks and balances.*

*We can however, imagine, distinguishing between the different functional roles played by participants/members within a payment card system.*

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11. What governance arrangements can incentivise card payment schemes to respond to the needs and demands of users (consumers and merchants)?

*Giving users, consumers and entrepreneurs, also a form of participation. It is conceivable that users do not get the same rights as members/participants, however it should be possible for users to either correct certain decisions, or be offered the possibility to give their view on a decision before it is discussed by members/participants.*

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12. What governance arrangements can allow minority participants or minority members to receive appropriate information and participate appropriately in decision-making?

*See above (B10).*

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13. What access conditions and fees are indispensable?

*No more requirements for joining should be called for than those necessary to guarantee the integrity and security of the payment card system.*

*It is conceivable that a fee is charged to cover certain administrative expenses, and that this fee depends upon the functional roles played, or the activities acquired, within the system in which is participated. Fees cannot and should not be as large, or made as large, so as to make it impossible for certain parties, that as such comply with all conditions (for example solvency demands and/or technical and/or security demands) that in all fairness could be called for or even should be called for, to take part.*

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14. To what extent is separation between scheme, infrastructures and financial activities desirable to facilitate competition and efficiency?

*The interim report discusses the Dutch Interpay-case (pages 94 and 95). This case seems to make clear that it is desirable to separate, in any case, the financial activities from the technical/infrastructural sides of the payment card system as such.*

*We find that the report proves that good governance within a payment card system, facilitating and enabling maximum competition within a payment card system, is of more importance than formal separations between system, technical and financial activities.*

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### **C. Future market developments**

15. Are significant structural changes to be anticipated in the payment cards industry?

*Yes, there are.*

*SEPA will play a major role in the near future, especially where as the debit card market is concerned.*

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16. What are the anticipated impacts on the industry of innovation and technological change?

*Electronic payments (paying by payment cards) are often of not much importance to parts of the horeca branche. Especially the bars/pubs-segment and the fastfood segment. These segments are characterized by, relatively spoken, a lot of transactions involving small amounts. Taking into account the high fixed costs related to electronic payments (terminal costs, fixed subscription costs regarding the data communication link, and in the case of PIN (debit card) a fixed amount per transaction) it is in the majority of transactions economically uninteresting to offer the possibility of electronic payment in the horeca branche.*

*Also, during rush hours in the horeca branche (for example weekends in cafés, bars and fast food businesses), electronic payments are considered slow (it takes too long).*

*Innovation and technological developments (contact free chips, broad band connections for data communications) might offer solutions for problems experienced at this moment with regard to “small” payments (payments of less than 15 euros).*

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### **D. Potential solutions to market barriers**

17. How can structural barriers to competition, which may arise for instance from the integration of different functions within a payment system or from acquiring joint ventures, be tackled?

*Please consult also above (B14) and aforementioned Dutch Interpay-case. In the case that vertical integration and joint ventures limit competition and consequently, notwithstanding more efficiency and accomplished economy of scale, do not lead to cost advantages for consumers and entrepreneurs, the national or international competition authority should take corrective measures. The Royal Dutch Horeca Association is not beforehand against joint ventures or vertical integration. These should therefore not beforehand by definition be forbidden. Provided that they are correctly implemented, vertical integration or joint*

*ventures can lead to cost advantages for banks as well as for consumers and entrepreneurs.*

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18. Are there compelling justifications for the identified possible behavioural barriers to competition?

*The Royal Dutch Horeca Association has identified none in the interim report.*

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19. How much need and scope is there for harmonising technical standards in the payment cards industry? How large are the potential benefits and costs of harmonisation?

*It seems obvious that everyone profits from harmonising technical standards, providing that in practice different systems are able to “communicate” smoothly. Concretely, the advantage lies in the fact that a Dutch consumer could pay at a French bakery with his debit card, as if he were at home.*

*At this moment this is only possible if the Dutch consumer possesses a card with an international debit version (Maestro in the Netherlands) and the French Bakery for its part has a contract with a provider who facilitates this. The technology of payment card systems has to be linked through standardisation in such a manner that this example can always be carried out anywhere in Europe without it depending on agreements that may happen to exist between consumer or entrepreneur and their banks.*

*The advantage is that it leads to more efficient electronic payment systems.*

*As soon as such harmonised systems come into practice, banks will profit:*

- *since it leads to more electronic payments*
- *since standardisation makes that less special facilities are needed to link different payment systems and to have them communicate; this should evolve into a reduction of costs.*

*Consumers profit:*

- *since they can pay electronically all over Europe (starting from the idea that standardisation is agreed within Europe). This is very convenient.*
- *in case that standardisation leads to a more efficient payment system, consumers can expect it to partly reflect in lower bank costs.*

*Entrepreneurs profit:*

- *since it will enable more European customers to pay electronically. This means that sales growth can be expected. Presently there might be foreign customers who will (have to) decide not to purchase for they do not have any cash on them and there is no possibility of paying electronically.*
- *in case that standardisation leads to a more efficient payment system, entrepreneurs can also expect it to partly reflect in lower bank costs*

*We are unable to pronounce upon possible proceeds and costs. Nor can we pronounce upon the costs related to such an operation. The major part of the costs will be carried by the banks who will have to adapt the infrastructure. However, entrepreneurs will also be confronted with costs, since in the Netherlands in most cases the entrepreneurs are owner of the terminals. Recent experiences with the euro-conversion and the introduction of the EMV-chip on credit cards have learnt us that this kind of adaptations will at least lead to*

*adaptation of terminals (through downloads) and in the worst case to replacement of a terminal.*

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## **E. Lessons for SEPA**

20. What lessons (best practice) for the design of SEPA schemes can be learnt from existing national and international payment systems?

*Leaving regulation of payment systems completely to the free market (self regulation), does not by definition lead to the most efficient payment systems. The present constellation of payment card systems is a hotch potch of systems that do not always match. In addition there is no full and open competition within and between payment card systems. Since banks prefer not to charge their customers directly with fixed rates, the present imperfect market of payment systems has led to the fact that especially the small entrepreneur are footed the bill of payment cards, especially credit cards .*

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21. How could competition between schemes in SEPA be strengthened?

*In the first place the European financial world, possibly under 'threat' of Brussels, should be given the chance to come to an agreement on European standards and specifications. As far as we know the European banks are working hard on it through the European Payment Council, and by 1 January 2008 three European payment products should be produced among which a European debit card (or at any rate the European standards for such a product).*

*It is important that this process guarantees that no 'political' choices are made (each bank will like to have the system in which it participates uplifted to a 'European standard'), but that an actual choice is made for the system that is most efficient to all parties (banks, consumers and entrepreneurs). The payment card systems to be developed/adopted within SEPA, naturally have to meet stringent requirements regarding quality and safety. In order to create a level playing field for all parties willing to offer payment services within these systems, there should be as little barriers obstructing the access as possible, of course within the framework of aforementioned requirements regarding quality and safety. As a matter of course demands regarding quality, integrity and solvability have to be made on parties willing to offer financial services within these systems. It remains, however, a question if these should go beyond the demands made by the central banks of the EU-25 on financial service providers operating in those countries.*

*The governance within these payment card systems should be organised in such a way that there is no unjustified distinction between members/participants.*

*In case the European financial world does not succeed in fulfilling these conditions, or in case they do not succeed without restraining competition in an improper way, external interference should not be ruled out.*

*This could take place either through the European competition authority, or through interference/regulation by the European central bank and/or European Commission. Interference through regulation should, however, not go beyond that which is strictly necessary to facilitate full competition. No more, and no less.*

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22. Which structural and behavioural barriers to effective competition between banks and payment service providers should be removed to achieve SEPA?

*Membership of a payment system within SEPA, or part of that, should not beforehand be limited by stipulating that a member/participant should at all times be a bank or payment service provider.*

*Conditions to be laid down for members/participants should be primarily based on content. For offering financial services to consumers and entrepreneurs it might, for example, be of great importance to permanently fulfil certain solvability conditions. Where as processing activities are concerned, technical and security requirements might be of primarily importance.*

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23. What governance requirements should SEPA schemes meet?

*Please consult B10 and E21.*

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24. By what means can interoperable communication protocols, security and other technical standards be achieved and certification procedures be limited to the minimum necessary?

*See explanation above (E21) and below (E25)*

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25. Do the removal of barriers to competition, the observance of pro-competitive governance and the creation of interoperable standards require (further) regulation?

*Preferably not. Please consult also above (E21).*

*Entrepreneurs prefer authorities, either national or international, to interfere as little as possible. Also in case that regulation does not apply to them directly.*

*Principally the Royal Dutch Horeca Association takes the view that the European financial world should be enabled to come to efficient European standards guaranteeing maximum competition. In case they do not want to, or in case they are not able to, interference through European regulation comes up for discussion, however, not beyond that which is necessary to enable full competition.*

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General comments:

*It is the opinion of the Royal Dutch Horeca Association that the results of the interim report should in any case give cause to a more profound inquiry into the establishing of the merchant fees for the processing of credit cards and especially into whether or not this limits competition in an improper way or not.*

*See also A2.*

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General questions:

1. Did you find the content of the report easily accessible and understandable?

XX yes, fully;

- the report was too general;
- the report was too technical.

2. Did you find that the level of detail in the report was:

- about right;
- XX not sufficiently detailed;
- too detailed.

3. Did the information contained in the report was:

XX generally new to you/the payment cards industry;

- mostly known to you/the payment cards industry.

4. Did the market analysis in the report:

XX confirm your views on the operation of payment cards market;

- challenge your/industry's views on the operation of payment cards market;
- represent a mix of both aspects.

5. Did the report raised the right policy issues;

XX yes, covered most of the key issues;

- no, there were some significant issues left out.

**Thank you for your contribution!**