We are pleased to announce the release of the second paper in the ICLE Financial Regulatory White Paper Series. “ The Way We Should Pay: Comments on The Way We Pay:Transforming the Canadian Payments System ” was authored by Todd J. Zywicki, Academic Affiliate at the International Center for Law and Economics and Foundation Professor of Law at George Mason University School of Law, and Philippe Bergevin, a Policy Analyst at the C.D. Howe Institute.

As outlined in the Task Force for the Payment System Review report, Canada’s payments system is falling behind. The thirty-year-old Interac system has facilitated widespread adoption of debit cards in Canada, but it is proving increasingly antiquated to the needs of a modern global economy. This paper explores the current state of the payment system in Canada within a global context and discusses the strong economic principles that should guide the work of the Task Force. Building on a robust framework of innovation and competition, it aims to positively orient the Task Force’s future decisions, while continually reaffirming the negative impact that can result from misaligned institutional incentives.

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The paper includes a number of specific suggestions and guidelines for the Task Force’s final recommendations. Most importantly, the paper recommends that:

1. The Task Force focus on removing existing regulatory and governance structures that may be impeding innovation and competition before considering adopting new ones.
2. The Task Force recognize first and foremost the problematic regulatory impediments in the debit card market--including limitations on co-badge cards, uneven rules and standards, and operating constraints related to the Consent Order--that effectively preclude meaningful competition on a level playing field.
3. The Task Force carefully define and limit what it means by “fairness” lest it be used to undermine, rather than bolster, the evolution of dynamic, competitive, innovative and efficient payment networks in Canada.
4. Any regulations or governance changes follow only from the identification of a significant market failure as well as a demonstration that the proposed regulation or governance mechanism can address that market failure without imposing greater costs in its stead.
5. The Task Force stress that any interventions should be minimal, clearly defined and limited.
6. The Task Force should avoid recommending specific market structures, allocations of cost, decision-making processes or other organizational constraints on complex and evolving

payment networks, but rather allow network operators and the markets in which they operate to determine them.

Download the paper " The Way We Should Pay: Comments on The Way We Pay:Transforming the Canadian Payments System ."