Electronic currencies to boost local businesses

Introduction

Imagine what would happen in your community if a large sum of money, the equivalent of a million euros perhaps, went into circulation in a form which prevented it being spent in any other part of the country and which rewarded those who earned it for spending it again as soon as possible. The new money would pass quickly from person to person, and from business to business, enabling a much higher level of trading to be achieved in the local area than is possible at present because of the shortage of liquidity produced by the banking crisis.

A group connected with Feasta, an economic think-tank based in Ireland, is proposing to test exactly this sort of money later this year. Cork, Kilkenny, Ennis, Dundalk and Ranelagh have all expressed interest in being the base for a trial. Other places will be able to start a Liquidity Network, as the system is called, once the trials have been completed successfully.

The new money, called the quid, will be entirely electronic. It will be issued by a local trust in each community and passed from user to user in three ways – mobile phone, the internet and special swipe pads at shops' checkouts. Each user will be given a float to enable them to trade. Their float will be increased if their trading goes up and reduced if it falls below the level for which it was originally given. The more quid you earn, the more rapidly you spend them, and the more people you trade with the greater your float will be.

The introduction of a liquidity network to an area will break the link that exists at present between the level of economic activity that it is possible to carry on there and the amount of money that the community has borrowed or earned from outside. A liquidity network enables an area to:

- Build its local economy by developing its local trading links. Many jobs could be created by meeting local needs with local skills and resources.
- Lessen the burden of mortgage payments and other types of loan service. As the same amount of euros will still be coming into the area, the payments made in quid will be in addition to, rather than instead of, payments in euros. Since the quid can be used for local payments instead of euros, more euros will be available for payments for which only euros are acceptable. As a result, the level of bad debts and rates and loan arrears should decline in areas with liquidity networks.
- Settle invoices more quickly. Because users are given a bigger float if quid move rapidly through their account, there is every incentive to settle accounts as quickly as possible.
- Lower business costs. If a business is given part of its working capital as a float by its local trust rather than having to borrow it from its bank, it will save part of its interest costs.
- Give local firms prepared to take payment in quid an advantage over outside firms which have no means of spending them.

We believe that thousands of jobs would be created around the country if complementary currency systems were set up which enabled people living in the same town or county to meet each other's needs without first having to get enough of an externally-created money together to enable them to pay each other.
The need for liquidity networks

No community's internal economy can function without money but very few communities have much control over its supply. This is because the money a community uses for local transactions is created externally and has to be borrowed, earned or transferred from outsiders before its members can use it to trade with each other. As a result, periods occur in which difficulties in the external economy mean that there is too little currency in their local economy for a community's members to do as much business with each other as they would like.

The introduction of local electronic currencies could overcome this problem. Detailed plans for such currencies - to be called liquidity networks - have been developed over the past 18 months by a group within Feasta and are now ready to be tested in a host community. The group intends that, when the inevitable teething problems have been overcome, the currency should go into full-scale use in the test community and elsewhere.

Should this proposal win a Your Country, Your Call award, the prize money would be used to pay for this trials-into-use phase of the liquidity networks' development. The money would also enable the results of the trials to be made available to other communities so that they could start their own liquidity networks with help from an advisory organisation the Feasta group proposes to set up.

Almost every business in Ireland has seen a fall-off in sales over the past two years and is experiencing cash-flow difficulties. Borrowing to ease the cash-flow problem is not an option for many firms as, even if the banks were prepared to lend, the firms are already over-indebted. Indeed, figures released in February by ICC Information show that 21% of trading companies have a 'Negative Net Worth' because their balance sheet liabilities exceed the value of their assets. The collapse in property values has exacerbated the situation and made it impossible for many businesses to use their land and buildings as security for additional loans.

It will not be easy to increase liquidity using conventional tools. If Irish people and firms cannot borrow, or are not prepared to do so for lack of confidence, and the government has to cut its own borrowing back, then the only ways that additional euros can be injected into the Irish economy are by foreign direct investment and/or running a surplus of exports over imports for several years. Since almost all money everywhere is based on debt, both having a balance of payments surplus and receiving FDI are simply ways of obtaining money borrowed by people in other parts of the world. The problem with relying on vicarious borrowing to solve our difficulties is that Ireland needs to run an export surplus to be able to service its foreign loans. A surplus large enough service foreign debt and to bring about a significant “trickle-down” of money into businesses will be very hard to achieve as there are high levels of debt in our trading partners, particularly the US and the UK. As a result, it may be many years before the liquidity shortage ends for the average firm.

A liquidity network would ease this problem by supplementing the scarce debt-based euro with a second, complementary currency, the quid, which would be given, rather than lent, into circulation for local use, thus freeing up euros for external transactions.

How a liquidity network will function

We have identified two ways in which a liquidity network could be launched. One way involves the local currency trust giving a float to a local authority which spends it into circulation. The other users then qualify for floats by showing their ability to earn and spend the quid circulated by the council. The second way is to start a local business-to-business trading system using euros and then issue each participating business with a quid float once their ability both to earn and spend locally has been established. The businesses' employees and members of the public can be brought into the system at a later stage. Here are the two options in more detail:

Launching through a local authority: Getting the local authorities from the area in which a liquidity network is being set up to agree to use quid would greatly enhance the currency’s
credibility and usefulness. Accordingly, the interim organisation set up to launch the system (Every liquidity network will be run by a local trust made up of trustees charged with representing the users' interests) will make every effort to secure their participation. It will offer to advance each of the local authorities in its area the float it is expected to need in the first few months of the system's operation. In return, the LAs will be required to commit themselves to accepting quid at par with the euro in payment for all local charges, including rates, council house rents, refuse and water charges, parking fees, development levies and motor tax. This commitment will run until a local authority has either built up its quid turnover to justify the float or returned any unearned portion to the trust. As all local authorities are stretched financially at present and have had to cut both spending and staff - 5,000 jobs have been lost nationwide – we have found a readiness to make this commitment.

One way the LAs will spend their advances is by negotiating with their employees to accept part-payment of their wages in quid. The employees are expected to agree because they will know that many of the shops in the area will accept quid at par with the euro and also that they will be given their own, personal floats by the local trust by being allocated extra quid the first few times they carry out quid transactions. They will also know that using the new money will be good for their community and will enable the councils to employ more people and provide more services than would otherwise be the case. In other words, their using the quid will make their jobs safer.

We expect the local traders to accept quid largely as a result of competitive and social pressures – if they don’t take them, other shops will do so instead, gaining extra business and showing their commitment to the community. However, participating businesses will be attracted by the idea of local workers being paid in a form of money which cannot be spent outside the area and will be re-assured by the thought that, if they accept quid, they can always use them to pay their rates and other council charges.

In this model, the quid's basic circulation is therefore from the councils to their employees, from the employees to the shops, and from the shops back to the councils. This will not do very much for the local economy and the success of the system depends on the extent to which people use quid in other circulation loops. For example, a shop could use quid to pay some of its staff wages, and the the staff could spend it in other stores or with local tradespeople. Or a shop could use it to pay its local suppliers.
The usefulness of the quid therefore depends on recipients taking the trouble to find ways of using it rather than simply passing it back to the councils. The system has therefore been designed to encourage them to do so. As more people use quid for more transactions, more quid are needed in circulation to support the increased level of trade. The basic principle underlying the system is therefore that, whenever trading levels increase the number of quid required in use, the additional ones are given to the users doing the extra trading in proportion to the extra they have done. The initial floats given to the councils should be seen in this light – they will be paid according to the level of trading the councils are expected to do in quid in the first year and the number of people and companies that they are expected to involve.

A more complex circulation requires bigger quid floats and builds the local economy.

Once a council has built up its turnover to justify the float it was advanced, it is no longer obliged to accept quid at par with the euro and can alter the exchange rate. Such a council is not, however, free to cease dealing with quid entirely. Any user who has been rewarded for achieving a certain level of trading who then averages less trade for a specified period will find that the local trust claws back some of the quid they were given so that their float is reduced to a level appropriate for their lower level of trading.

If the level of trading in a liquidity network ever declined, reducing users’ floats would allow the total number of quid in circulation to be reduced. This is an essential feature of the system’s design because money has to be kept scarce in relation to the level of trade if it is to retain its value. If the euro became so abundant again that people no longer wanted to be bothered with using the quid, it would be possible to use a combination of the monthly account fee the local trust will charge and float reductions on slowing accounts to withdraw quid from circulation and thus wind the system gradually down.

Launching through local businesses: An alternative way of launching a liquidity network would be to establish a local business-to-business payment system using the euro and, after a three-month period during which it became possible to see how much local trading each business was doing and how much a float each would require to carry that business, give each
its float and allow trading in quid to begin. Lucey Technologies, PayPal and Sage all have euro payment systems which a local group of businesses could use and there are groups of businesspeople in both Cork and Ranelagh which have expressed interest in launching a liquidity network on this basis.

**What's new about the quid?**

Adjusting the number of quid in circulation by increasing or reducing a user's float is only possible because the transactions are entirely electronic and are made via the internet and mobile phones. All the accounts records are kept on the same computer, so the "clearing" process usually takes less than a second. This enables the system's managers to know the value of the transactions through each account during a week or a month and the number of other account holders involved in each user's trading. Increases and reductions in floats can be made by algorithms using this information. Such a system would not have been possible before mobiles and good internet connections became ubiquitous.

The key features of the quid are:

- It is electronic.
- No account is allowed to go into the red.
- The total number of quid in circulation is set by the managing trust which can increase or decrease supply to meet demand.
- Each local liquidity network is owned and controlled by its users who select the members of the trust.
- The trust will not buy and sell quid for euro or guarantee any exchange rate between the currencies.
- Its issue builds trust

  - in transactions. All transactions are immediate so there is no risk of bouncing cheques. Every transfer of quid from one account to another will be recorded and acknowledged by text or e-mail. This will make fraud hard to conceal and the best electronic security practices will be adopted to make it very hard to attempt. And because notes are not used, there's no risk of being mugged!
  - in the people with whom one trades. At a later stage, a "satisfaction-rating" system similar to that used by Amazon for its affiliated suppliers or the Ebay reputation system will be launched.

**Has a similar system been operated before?**

Complementary currencies have been used in times of economic turmoil in the past. Some worked so well in the US in the 1930s that Professor Russell Sprague of Harvard University advised President Roosevelt to close them down because the American monetary system was being "democratized out of [the government's] hands." Currencies spent into circulation by provincial governments in Argentina in 2001 when the peso got very scarce made up around 20% of the money supply at their peak. The currencies were withdrawn in mid 2003 for two main reasons. One was pressure from the IMF, which felt that Argentina would be unable to control its money supply, and hence its exchange rate and rate of inflation, if the provinces continued to issue their own monies. Another, more powerful, reason was that the federal government felt that the currencies gave the provinces too much autonomy and might even lead to the break up of the country.

Regional currencies using paper notes are operating successfully in Germany at present,
particularly in the depressed east. However, these all derive their value from the euro which backs them 100%. Users buy the currency notes for euro and can exchange them back, at a discount, if they wish. The same is true of the paper currencies issued by some Transition Towns in Britain.

The only currency we know of that is given into circulation is the Ithaca Hour, which has circulated in Ithaca, New York state, since 1991 and which led to the launch of similar systems elsewhere. However, Hours are paper notes and there is no means of withdrawing them from circulation if the level of trading contracts.

Although mobile phones are being used for making payments in several countries, particularly in Africa, these are all based on the national currency. We therefore believe that there is nothing equivalent to a liquidity network operating anywhere in the world.

**Would a liquidity network be legal?**

Yes, a liquidity network would be legal. We attach a Senior Counsel's opinion. Moreover, we believe that the government will welcome the experiment. We have kept the Minister for Communications informed and a government senator from Dundalk is backing the project.

**What we will do if we get the award**

A new not-for-profit organisation, independent of Feasta, will be set up as an educational charity to develop the liquidity network idea and to help communities adopt it. A draft of its constitution, and that of a typical local liquidity network trust, has been prepared. The new organisation will work to develop both the local authority-led and business-to-business launch methods.

**Local authority launches:** By the end of April 2010, three councils, Kilkenny, Ennis and Dundalk, had expressed interest in hosting the trials-into-use phase of the liquidity network’s development. At present, Dundalk appears to have an edge because it is one of two towns in the country (the other being Tuam) which has had payment terminals operated by an Irish start-up company, Zapa Technology, installed in many shops. As a result, these shops will be able to accept quid payments without having to purchase additional equipment and find space for it on their counters or checkouts. We have reached an agreement with John Nagle, the CEO of Zapa, that we can use his company’s terminals for quid transfers. A letter from Dundalk’s Town Centre Commercial Manager is attached supporting the idea of the trial. It is understandable that Dundalk traders should welcome a form of money that cannot be used north of the border unless the recipient has business to do in Co. Louth.

The first stage of the project in Dundalk would be for someone from the new organisation to begin to work full-time with the town council, the traders and the council staff get the basic council-council worker-shop-council circulation system operating satisfactorily. Only a few members of the council’s staff will be part-paid in quid initially but we will increase numbers as confidence grows. We will open accounts on the network’s server for the council, the shops and the workers. The latter will be given a special version of the standard Zapa Radio Frequency Identification (RFID) tag to stick on their mobile phones, or can use the liquidity network’s software on their mobile or laptops. The tag will allow them to wave their phone close to a special pad to make a purchase. An immediate deduction will be made from their account if the amount is below ten quid but they will be asked to tap a PIN code into the merchant's terminal to confirm the transaction if the amount is greater. If they are using their mobile phone, they will get a text message confirming the transaction and giving the current balance in their account. We have developed the basic software needed for this stage but have still to finalise the interface with Zapa and improve its usability before the system goes live. An alternative system will be provided for individuals and traders who cannot or do not wish to use the Zapa tag or any RFID system.

In the second stage of the trial, accounts will be opened for people on secondary circuits – the shops’ employees, for example - and users will be able to transfer quid to each other using
their mobiles and the web. At the third stage, we will throw open the system to everyone in the county. During this work, we will keep Kilkenny and Ennis abreast of progress so that their systems can start with little delay. While these towns will have the option to install Zapa equipment, we will also provide them with the option of launching liquidity networks using public networks and electronic hardware that most users already possess. This non-proprietary system would be set up in a way which allowed other payment networks to interface and make trades.

**Business to business launches:** We expect to set out our proposals to business groups in Cork and Ranelagh during May.

**Conclusion**

Many more jobs could be created in Ireland if the level of local economic activity was less reliant on flows of an externally-created, debt-based currency. A liquidity network would reduce this reliance. It would also build up the community's resilience to external shocks by encouraging more local production for local use. A liquidity network would offer the businesses which used it lower interest costs and a degree of protection from external competition. This should enable more start-up businesses to thrive and develop the strength they require before they can compete successfully in the outside world. In short, by altering the balance between local, national and global, liquidity networks could have a massive positive impact on life here.

Moreover, Ireland has money-transfer start-up firms like Zapa and Lucey with global ambitions and is already a leading software exporter. The development of really successful liquidity networks in Ireland would create sales, technical and advisory opportunities all over the world for these companies and for new ones that, because of Feasta's open hardware and software approach, would be bound to set up.

**The Liquidity Network team:**

- **Joerg Baach**, a software developer based in Germany, is also a member of the opencoin electronic cash development team. (http://opencoin.org/)
- **Graham Barnes** chairs ABTECH, a co-operative project to accelerate the use of information technology in the European travel industry. He led the 80-strong team which developed the Galileo computer reservation system used by airlines. He divides his time between Co. Kildare and Dorset.
- **Fabio Barone** is an alternative currency researcher, freelance software engineer and IT architect based in Switzerland. He has substantial experience in electronic payment, banking and financial IT systems.
- **Phoebe Bright** is a founder member of Jumpstart Ireland, a group of Cork entrepreneurs. She is a specialist in scenario planning and has been an IT consultant to Bank of America, BCCI, Chase and Total.
- **Stephen Butler** has worked on electronic cash and card reader networks, financial and telecommunications software, and EU joint ICT research projects. He lives in Co. Sligo.
- **Brian Dillon** has a business in Co. Kilkenny making electronic equipment for disabled people. He is a founder of FutureProof Kilkenny, the county's transition initiative group.
- **Richard Douthwaite** is an economist with an interest in money systems. He is the author of *The Ecology of Money* and lives in Co Mayo.
- **John Jopling** is a retired London barrister. He is a director of Feasta and has helped numerous non-governmental organisations to set up. He lives in Co. Tipperary.
- **Ciarán Mulloy** is sales manager of Process Master Ltd which provides tools for companies to manage, document and update their organisational processes. He previously worked on computer systems for credit unions. He lives in Dublin.

**Important Note**

The Liquidity Network team are all volunteers. It is the team's intention that all the software and intellectual property they have created and will create should be freely available to potential users anywhere in the world. If our acceptance of a Your Country, Your Call award was made conditional on our signing over rights which meant that information and software was not going to be freely available in future, we would decline the award and withdraw from the competition.

We did, however, receive assurances at the YCYC presentation in Cork that if our software etc was open source this would not be an obstacle to our being given an award.

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Querist: Feasta

Re: Liquidity Network

OPINION

Anthony M. Collins
18 December 2009
I. FACTUAL BACKGROUND

1. I am instructed that the factual background against which these advices are offered is as follows.

2. Kilkenny County Council, Kilkenny Borough Council and Kilkenny Chamber of Commerce intend to establish a not-for-profit mutual organisation to run the following system in the interests of its users.

3. The board of the mutual organisation (“MB”) will authorise Kilkenny County Council and Kilkenny Borough Council to spend a specific amount of Katz into circulation in the first year. In return, the councils undertake to accept Katz as equivalent to the euro for the payment of business rates, refuse and water charges and road tax.

4. Kilkenny County Council and Kilkenny Borough Council will seek the agreement of their suppliers and employees to take part-payment of their invoices/salaries in Katz.

5. It is envisaged that suppliers and employees will agree to accept Katz because they know that a wide range of shops in Kilkenny will accept Katz. In the first few months, the MB will give employees a bonus after each transaction as a way of injecting additional liquidity into the system.

6. It is envisaged that retailers will agree to accept Katz because they know that they can spend them on their bills from Kilkenny County Council and Kilkenny Borough Council, or as the system grows, with other local traders or as part of their employees' salaries.

7. Most payments in Katz will be made electronically using internet banking, mobile phones or card systems. Paper notes of some sort may be used to supplement the system. These will be sold for electronic Katz and anyone holding them may turn them back into electronic Katz by paying them into their account via the MB's office. Whilst the MB will
never sell or redeem these notes for euros it is anticipated that private persons may exchange paper Katz notes for euros.

8. During the start-up period bonuses will be paid on a transaction by transaction basis only. Once trading patterns become clear, people will be encouraged to spend their Katz quickly with a wide range of traders by paying them a bonus based on a number of factors, such as the number, size and distribution of transactions. To discourage users from hoarding Katz, fees will be charged for using the system and accounts with a low turnover in relation to the average balance may have a proportion of their previous bonuses withdrawn. The balance between fees, withdrawals and bonuses will be tweaked as the system develops, but it is anticipated that, for regular Katz users, bonuses should exceed fees.

9. All electronic transactions will be recorded. This will allow the MB to keep a close eye on the level of trading in relation to the number of Katz in circulation and take action to keep Katz scarce enough to retain their value. If the system’s turnover expands, more Katz can be given as bonuses and Kilkenny County Council and Kilkenny Borough Council can be advanced more to spend into circulation. If it contracts, Kilkenny County Council and Kilkenny Borough Council would be asked to return part of any outstanding advances to the MB and bonus withdrawals could exceed new bonuses.

10. All data will be held securely on servers controlled by the MB. There will be strict compliance with the provisions of the Data Protection Act.

11. Users will be encouraged to give some or all of their bonuses to local good causes. They may specify, for example, that 10% of every bonus should be given to St. Vincent de Paul and the system will do this automatically.

12. The Katz Kilkenny County Council and Kilkenny Borough Council are initially advanced to spend into circulation are an interest free loan to be repaid either through turnover bonuses or by repaying Katz to the MB. Once these advances have been earned
or repaid, Kilkenny County Council and Kilkenny Borough Council will be under no further obligation to accept Katz at par with the euro. This will allow the effective exchange rate between the two currencies to diverge, which may be desirable if euros become very scarce. Once the advances have been repaid or earned out, there will be no debt in the system.

13. Once the system is up and running, it may provide for an electronic purse to facilitate smaller purchases. This would be done by permitting users to download Katz on to a mobile phone or an RFID card and use it to make smaller purchases in shops without needing to contact the system's server and key in a PIN at the merchant's till.

II. SCOPE OF OPINION

14. The establishment of a system along the lines described at Part I, above, raises a myriad of legal issues. These include the powers of Kilkenny County Council and Kilkenny Borough Council to establish and to be involved in the initiation, operation and management of this system, the use of Katz in tenders for public contracts, whether the payment of wages in Katz satisfies the requirements of the Payment of Wages Act 1991, the application of Value Added Tax to transactions in Katz etc. Some of these issues could be addressed only in the context of further detailed instructions, notably from Kilkenny County Council and Kilkenny Borough Council. Others are of a more involved and essentially practical character and will almost certainly involve considerable effort on the part of all concerned to be satisfactorily addressed. For these reasons this opinion does not address these specific issues. It is limited to considering two central points.

15. The first is whether Katz is currency or money in the eyes of the law, such that the scheme described at Part I may be potentially unlawful.

prudential supervision of the business of electronic money institutions,\(^1\) such that the system described at Part I, above, must comply with the requirements set out therein.

**III. IS KATZ A CURRENCY?**

17. Article 2 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro\(^2\) provides that as of 1 January 1999 the currency of the participating Member States shall be the euro. Whilst not strictly necessary to so provide, Article 17 of Regulation 974/98 expressly states that it was binding in its entirety and directly applicable in all participating Member States as of 1 January 1999.

18. Section 6 of the Economic and Monetary Union Act 1998 substitutes the following for section 24 of the Central Bank Act 1989:

> By virtue of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro, from the 1st day of January, 1999—
> (a) the currency of the State is the euro, and
> (b) the Irish pound unit (within the meaning of the Economic and Monetary Union Act, 1998) is a subdivision of the euro.

19. These measures state in terms that the euro is the currency of the State. Whilst they do not prohibit, in terms, the circulation of another currency in the State, it is at least reasonable to interpret them as preventing the State from adopting a currency other than the euro.

20. Neither Regulation 974/98 nor the Economic and Monetary Union Act 1998 define “currency”. Indeed a legal definition of “currency” and “money” has proved to be elusive. It has been suggested that money only serves its required function if it is intended to serve as the universal means of exchange in the State of issue.\(^3\) The Supreme Court of Canada ventured the following definition: “any medium which, by practice, fulfils the function of money which everyone will accept in payment of a debt is money in

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2 OJ L 139, p. 1, hereafter “Regulation 974/98”.
the ordinary sense of the words, even though it may not be legal tender”.\(^4\)

21. Mann *On the Legal Aspect of Money*\(^5\) is a seminal and influential text in its field. That part of this work entitled “*The Meaning of “Money” – A Functional Approach*” concludes as follows:

> money is that which serves as a means of exchange – subject to the crucial proviso that its functions must have the formal and mandatory backing of the domestic legal system in the State or area in which it circulates. For anything which is treated as “money” purely in consequence of local custom or the consent of the parties does not represent or reflect an exercise of monetary sovereignty by the State concerned, and thus cannot be considered as “money” in a legal sense.

22. It is noteworthy that this definition neither attempts to identify the assets or instruments capable of constituting money, nor excludes the creation and circulation of money by private or non-State agencies. Stripped down to their core, Mann defines the essential legal characteristics of “money” as the requirement that it be expressed by reference to a name and denominated by reference to a unit of account which, in each case, is prescribed by the law of the State concerned and which currency and units are intended to serve as the generally accepted measure of value and medium of exchange within that State.\(^6\)

23. Since Katz is neither prescribed by the law of Ireland nor is it intended to serve as the generally accepted measure of value and medium of exchange in the State, it is difficult to see how it satisfies the definition of “*money*” or “*currency*” for legal purposes. What is proposed at Part I, above, appears to be a means of exchange that is treated as “*money*” purely in consequence of local custom and/or the consent of the parties. As such it does not represent or reflect an exercise of monetary sovereignty by the State and thus falls outside the legal definition of “money”.

\(^4\) *Reference re Alberta Statutes* [1938] SCR 100, 116. In this context the concept of “*legal tender*” does not advance matters significantly. The term is used to describe a statutory requirement, usually in the context of payment in coinage: see Economic and Monetary Union Act 1998, s. 10. In a contemporary context payment through the use of a funds transfer system is not payment by legal tender: see Paget’s *Law of Banking*, Lexis Nexis, 2007, 13\(^{th}\) edn. paragraph 17.10.

\(^5\) Oxford University Press, 2005, 6\(^{th}\) edn., hereafter “Mann”.

\(^6\) Mann, paragraph 1.50.
24. The answer to the first question is thus that Katz is not currency or money in the eyes of the law. As such its introduction is not subject to any prohibition implied by law.

IV. IS KATZ GOVERNED BY DIRECTIVE 2000/46?

25. By way of preliminary it should be observed that EU Directives are not self-executing and require transposition by the Member States in order to have full force and effect in their respective domestic legal orders. Nevertheless in interpreting and applying EU Directives the Member States, including their courts, are required to do so in a manner which furthers the application of the Community measure.

26. Directive 2000/46 has been transposed into the law of Ireland by the European Communities (Electronic Money) Regulations 2002,7 Article 2 of which defines “electronic money” as “monetary value as represented by a claim against the issuer of it, that is (a) stored on an electronic device, (b) issued on receipt of funds of an amount not less in value than the monetary value issued, and (c) accepted as a means of payment by undertakings other than that issuer”. Article 3(b) of Directive 2000/46 is expressed in identical language.

27. Given the conclusion reached at Part III, above, the first issue to which this definition gives rise is whether there the reference to “monetary value” rather than to “money” is of any significance.

28. The 2002 Regulations defines neither of these terms. However it is noteworthy that the third recital of Directive 2000/46 states that, “[f]or the purposes of this Directive, electronic money can be considered an electronic surrogate for coins and banknotes, which is stored on an electronic device such as a chip card or computer memory and which is generally intended for the purpose of effecting electronic payments of limited amounts.”

7 S.I. No. 221 of 2002, hereafter the “2002 Regulations”.
29. Interpreted in the light of this recital, the “monetary value” described in the 2002 Regulations is to be equated to (“an electronic surrogate for”) “money”. For the reasons set out at Part III, above, since Katz is not money, value in Katz does not satisfy this definition.

30. It is somewhat unclear whether Katz meet the second of the requirements of the definition of “electronic money” namely that it constitutes “a claim against the issuer”, since it is not expressly stated that persons holding Katz will have a claim against either the MB or Kilkenny County Council/Kilkenny Borough Council. In this context Article 11(4) of the 2002 Regulations imposes a redeemability requirement on issuers of electronic money to the effect the bearer may redeem the nominal value in cash or by means of a transfer on request, which provision reflects Article 3(1) of Directive 2000/46. If Katz are not issued against euro it is difficult to see how such a requirement is applicable, let alone how it could be met.

31. The third requirement, that the monetary value be stored on an electronic device appears to be met, even prior to the introduction of an electronic purse or other portable device, since Katz are to be recorded on an electronic device/computer memory.

32. To meet the fourth requirement, Katz would have to be issued on receipt of funds of an amount not less in value than the monetary value issued. My understanding of the instructions described at Part I, above, is that Katz is not issued on the receipt of funds. On that basis they would appear to fall outside the scope of this aspect of the definition.

33. On the basis that it is anticipated that Katz will be accepted as a means of payment by undertakings other than the issuer the fifth requirement appears to be met.

34. For these reasons it appears that Katz are not “electronic money” for the purposes of Article 2 of the 2002 Regulations as interpreted in the light of Directive 2000/46.
For the sake of completeness it should be observed that Directive 2000/46 is to be repealed from 30 April 2011. Its provisions are to be replaced by Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC.\(^8\) Article 2.2 of Directive 2009/110 defines "electronic money" as "electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer." Whilst this definition is quite broad and technically neutral,\(^9\) the fifth, sixth and sixteenth recitals are indicative of a more relaxed approach at Community level towards imposing the full rigours of Directive 2009/110 on all issuers of electronic money. It is also noteworthy that Article 11 of Directive 2009/110 retains the requirement that Member States legislate for redeemability at par value on the receipt of funds.

**V. CONCLUSION**

For the reasons set out at Part III, above, Katz is not currency or money in the eyes of the law. As such its introduction is not subject to any prohibition implied by law.

For the reasons set out at Part IV, above, Katz is not “electronic money” for the purposes of Article 2 of the 2002 Regulations as interpreted in the light of Directive

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\(^9\) Directive 2009/110, seventh recital. The eighth recital expressly refers to money stored remotely at a server.

Nothing further occurs.

Anthony M. Collins
18 December 2009
30th April, 2010.

Richard Douthwaite,
Feasta,
14, St. Stephen's Green,
Dublin 2.

Dear Richard,

Further to our meeting that we had recently in Dundalk re the liquidity network. It was a very interesting meeting and gave a lot of ‘food for thought’.

Here in Dundalk it is especially important with the border only 20 minutes away that as much business is kept local. Our recent Nice One gift card campaign showed the willingness and resolve of consumers to support their own. The liquidity network is a very innovative next step in the process and whilst complex to the outsider, it seems to have a lot of merit and warrants further investigation. It will need the buy in from all the main stakeholders in the town including councillors, local authority as well as businesses so further examination and consultation would be the first step.

Kind Regards,

Andrew Mawhinney
Town Centre Commercial Manager
22nd April, 2010.

Our Ref: DOS 1 GD/AMcM

Mr. Richard Douthwaite,
Cloona,
Westport,
Co. Mayo.

Re: The Liquidity Network

Dear Richard,

I refer to our recent meeting here in Ennis at which myself and the Head of Finance was in attendance.

The proposal which has been put forward by Feasta is a very interesting and innovative approach and is very relevant in the current climate. The success of the initiative will obviously require buy in from a wide range of interests including the business sector, elected representatives and local authority staff. It is a very complex proposal and will require some time to enable it to be fully explained to the various parties that might be involved to ascertain if it can be implemented here in Ennis.

We are happy to have further discussions with you on the overall proposal and to facilitate wider discussions if you so wish.

Yours sincerely,

Gerard Dollard,
Director of Services and Ennis Town Manager.