

Eurofinas response to the European Commission's public consultation on the Consumer Credit Directive

Introduction

Eurofinas, the voice of European specialised consumer credit providers, welcomes the opportunity to contribute to the European Commission's public consultation in relation to its evaluation of the Consumer Credit Directive (CCD).

We remain fully committed to the Commission's objectives as outlined in the Consumer Financial Services Action Plan in providing European consumers with the highest level of consumer protection, a wide choice of products suitable to their needs and the improved functioning of the retail financial services market.

Our comments should be read in conjunction with our response to the consultation's general questionnaire, to which we would like to elaborate further on in relation to a number of specific issues.

We remain at the Commission's disposal, should the need for further clarification or any form of assistance be required/desired.

Eurofinas is entered into the European Transparency Register of Interest Representatives with ID n° 83211441580-56

Introductory remarks

As a general remark, we believe that the CCD broadly remains fit for purpose by fulfilling its primary task of providing European consumers with a high level of consumer protection in retail financial services and access to safe and simple credit solutions. The well-established, dynamic and highly competitive consumer credit markets provide European consumers with a wide choice of both products and providers to select from depending on their situation and needs. Consumer credit lenders support the social and economic well-being of millions of consumers across Europe by providing access to good and sustainable finance to European households.

Digitalisation has rapidly transformed the European consumer credit market since the adoption of the CCD in 2008. The application of new technologies as well as changing consumer demand and expectations have played a key role for the industry, which closely evolves with the identification and understanding of consumers' needs and wants. The way consumer credit is accessed and provided has radically changed with an increased focus on online and mobile channels as well as on an integrated and seamless experience.

In order to continue to add value to consumers and allow them to make full use of the possibilities arising from digitalisation and innovation, a number of points relating to both the CCD as well as incoherent national frameworks (such as specific requirements for written form, etc.) should be addressed to better enable the provision of consumer credit in the digital age. Moreover, addressing the inconsistent implementation and widespread gold-plating of the CCD would improve the functioning of the market and enable greater clarity for consumers and businesses alike.

Scope & level playing field

In our view, the CCD's scope, covering loans between EUR 200 and EUR 75,000, remains relevant to cover the current market reality. It provides for a proportionate framework encompassing the relevant market activities in line with the intentions behind the CCD.

This notwithstanding, the increased use of digital tools has enabled the provision of credit by distance and empowered new players to enter the market. While this may add to the already high level of competition and increase the choice for consumers, in order to sustain the high level of consumer protection and maintain customers' trust, not least in new innovative technologies, it is important that all players engaging in similar activities are subject to the same rules as well as the same level of scrutiny based on the principle of same activities, same risks, same rules, same supervision within the relevant market. In this respect, effective and coherent supervisory and enforcement practices are vital.

Going forward, further developments may require a consideration to adjust the scope, however, it remains imperative that any changes to the framework scope carefully consider and maintain a proportionate approach and do not cause an undue increase of administrative burden and complexity.

Cross-border transactions

As identified by the Commission, the level of pure cross-border transactions, involving a lender in one Member State and a customer in another one, has not substantially increased since the introduction of the CCD. The reasons behind this are multi-faceted: low consumer demand due to language barriers and a general home bias, allied to already good access to strong and competitive local markets.

From a business point of view, the provision of credit in a cross-border setting may often be viewed as complex from an operational and legal point of view. The need to take into account deviating national legal frameworks following on the Rome I Regulation when/if marketing to another Member State, requires substantial resources in the form of legal expertise as well as other relevant functions with country-specific knowledge.

Enabling the digital journey may play a role in increasing these activities. However, many of the limiting factors still remain outside the remit of the CCD, for example, diverging national consumer protection frameworks as well as important differences in contract, taxation as well as recovery and insolvency law. There is also a general lack of convergence concerning remote identification, electronic signatures and KYC processes, etc. Concrete obstacles persist for providers in enabling effective and / or compliant

tools to enable fully digital solutions in relation to, for example, verification of identities or the signing of credit agreements. This is the case for both domestic and cross-border transactions. It is unlikely that the supply and demand for cross-border transactions would substantially increase without addressing many of these issues which are in fact outside of the scope of the CCD.

Legal coherence

The CCD and other relevant EU frameworks are generally speaking coherent and complementary in nature. The frameworks take the necessary consideration of the varying scope of the products covered, their general duration and complexity. A certain degree of inconsistency does exist in relation to the terminology of some of the various frameworks.

Provision of information

The CCD brought forward important targeted harmonisation on how and what information consumers are to receive at the various stages of the customer journey. However, with the provision of the large amount of information, the risk of information overload is substantial. With the increased prevalence of digital distribution channels, not least through mobile technologies, it becomes increasingly difficult to ensure that the consumer is able to make an informed choice without disrupting a seamless customer journey.

Indeed, lenders are continuously exploring new ways to find innovative and smarter ways to provide the required and relevant information allowing consumers to make an informed decision. However, the application of the CCD, which was introduced in a paper-based-era where face-to-face contact with the customer was the norm, provides for a number of challenges in the digital distribution channels. For example, when advertising via social media and other digital channels, lenders encounter substantial challenges in providing the required information in an accessible way due to space/time limitations.

The issue is further apparent at the pre-contractual stage, with concrete implications for consumers as well as to lenders' ability to complete a fully digital journey. The CCD sets out strict rules for the content and form of the Standard European Consumer Credit Information (SECCI). This creates a number of challenges when a customer utilises a smartphone or a tablet. It takes a consumer between 30 to 150 swipes to review the SECCI, on a mobile device by the consumer. This prevents the customer to effectively process and assess the information without moving to a different platform or distribution channel. A connected issue for the digital journey is how to meet both the CCD's timing requirements ("in good time") and the consumers expectation for a smooth, one-click experience.

The evaluation of the CCD provides the opportunity to further explore the possibility to better adapt the information requirements to the digital channels. This would better meet consumers' demand for a smooth and seamless experience as well as allowing for the effective application of tools, such as hyper-linking or other technical measures. Furthermore, it could enable the consumers to access and process the information in a smarter and more relevant way allowing them to make better decisions.

It is also an opportunity to assess the potential to streamline the information to be provided along the customer journey in a better and more proportionate way, adjusted to the duration and value of the credit, and to achieve a greater focus on complementary information at the various stages. This could help to avoid the current situation with a high degree of repetition of information, and to re-focus on the key information sought and required by the consumer to take an effective decision.

Creditworthiness assessment

The obligation to properly assess an applicant borrower's creditworthiness forms part of the core activities of financial institutions and the risk and credit granting policies fundamentally influences the commercial policies of lending firms.

The CCD provides lenders with a degree of flexibility in how to carry out the assessment, which data and sources to use as well as how to verify the information, etc. This is necessary in order to consider the characteristics of retail lending, the range of products covered as well as the differing operational realities at national level. The assessment, and the required information, must reflect the loan value in order to remain proportional and also to comply with the General Data Protection Regulation.

With consumer loans typically being of short duration and relatively low value, they must be distinguished from other types of loans. Increased harmonisation of creditworthiness assessment processes would carefully need to consider this and Member State specificities, whilst at the same time ensuring a basic level playing field. The advent of new online consumer providers licensed in other EU Member States necessitates closer attention to the latter issue.

At the same time any measures taken need to ensure sufficient flexibility so that consumer finance providers can continue to serve trustworthy but atypical customer segments based on their expertise and customer knowledge, and do not unnecessarily stifle lenders ability to innovate and promote the uptake of new technologies.

Right of withdrawal and early repayment

The CCD introduced a number of important consumer rights, including the rights of withdrawal and early repayment, which consumers are generally well-informed on and made further aware of by lending operators with expedient processes to handle such requests. With the impact of digitalisation, the growth of the new channels and consumers' expectation for faster provision of credit, their relevance will remain significant. It is important that the rights remain proportionate and respect the relationship between borrower and lender. Failing to recognise this has caused the interpretation of the CCD in some Member States to result in unintended and disproportionate consequences, going beyond the intentions of the CCD. In relation to the right of early repayment, the interplay with national rules, on, for example interest cap restrictions, may also provide for a situation where the allowed early repayment fees do not correspond to the intended levels.