

CCD REVIEW

European Parliament adopts report in November

On 20 November 2012, at Strasbourg plenary session, the European Parliament adopted the Report on the Implementation of the Consumer Credit Directive (CCD). Adopted with an overwhelming majority, the Collin-Langen Report insists that priority should be given to a correct transposition of the CCD rather than its revision and the adoption of a new legislative framework.

Birgit Collin-Langen, Member of the European Parliament, presents the European Parliament's report on the transposition of the Consumer Credit Directive.



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• The harmonisation of the consumer credit market across Europe is an important political task that is in the interest of both consumers and creditors. The Consumer Credit Directive 2008/48/EC was adopted in 2008 by the European Parliament and the Council with the aim of facilitating cross-border loans and fostering the internal market by bringing national legislation into line.

The Collin-Langen Report gives an overview of the implementation of the CCD. It calls for consumers applying for a loan to be provided with easily understandable explanations and clear information on the risks involved in foreign currency lending. The Report raises concerns about the calculation of the Annual Percentage Rate of Charge (APRC) and about the Standardised European Consumer Credit Information (SECCI) sheet. With the demand for

“sms loans” continuously increasing, the Report pays additional attention to this issue. To be more effective and inclusive, the transposition of the Directive's provisions should involve both national legislators and financial institutions.

In that context, I believe that there is currently no need to revise the Directive. Priority should be given to a correct transposition of the Directive and enforcement in Member States.

The European Parliament,

· having regard to Rule 48 of its Rules of Procedure,

· having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Economic and Monetary Affairs (A7- 0343/2012),

A. whereas opening up national markets in the important economic sector of consumer credit, promoting competition, addressing different levels of consumer protection, removing potential competition distortions between market operators and improving the functioning of the internal market are political tasks incumbent on the EU and are in the interests of consumers and creditors;

B. whereas the targeted definitive harmonisation brought about by the Consumer Credit Directive in five sub-areas, on the basis of arrangements which offer the Member States little in the way of leeway, in particular as regards possible different approaches to implementation, has created a common European legal framework to protect consumers;

C. whereas, however, some legal and practical obstacles have still to be overcome;

D. whereas, as shown by the European Parliament study on the implementation of the Consumer

Credit Directive, certain key provisions of the Directive –such as Article 5 on pre-contractual information– have not achieved the intended harmonisation of Member States' consumer protection rules due to differences in interpretation and implementation by the Member States;

E. whereas, given the short deadline and the number and scale of the legal changes to be made, not all the Member States transposed the Consumer Credit Directive in time or, in some cases, entirely correctly;

F. Whereas statistics show that the take-up of cross-border consumer credit has not increased since the Directive entered into force, although this could be explained by various factors, such as language, but also by the massive problems affecting the financial sector and by the lack of sufficient consumer information about the opportunities of cross-border consumer credit and the rights of consumers when concluding such contracts;

G. whereas adequate consumer protection practices in the credit sector play a significant role in ensuring financial stability; whereas exchange rate volatility poses significant risks to consumers, especially during financial crises;

H. whereas excessive foreign currency lending to consumers has increased the risk and losses borne by households;

I. whereas the European Systemic Risk Board adopted on 21 September 2011 an important recommendation on lending in foreign currencies (ESRB/2011/1);

J. Whereas, under the terms of Article 27 of the Directive, the Commission is required to undertake a review of certain aspects of the Directive, and whereas, in that connection, it has already asked for a preparatory study to be carried out;

K. whereas it is particularly keen to be kept informed about the stages in and outcome of the review and to have the possibility of delivering an opinion;

1. Welcomes the fact that, in preparation for its review, the Commission is already conducting a study of the impact of the Directive on the internal market and on consumer protection, in order to determine exactly what bearing it will have on the take-up of cross-border credit, and applauds the comprehensive work carried out by the Commission and by national legislators and credit institutions;

2. Points out that improving the cross-border consumer credit market would generate European added value by boosting the internal market; considers that this could be achieved, inter alia, by better informing consumers about

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the opportunity to obtain consumer credit in other Member States and about the rights of consumers when concluding such contracts;

3. Acknowledges that cross-border consumer credit accounts for less than 2 % of the total credit market and that roughly 20 % of the loans in question are taken out online;

4. Points out that one of the purposes of the Directive was to ensure the availability of information – thus facilitating the operation of the single market also in the field of credit – and that it is therefore necessary to evaluate whether the number of cross-border transactions is increasing;

5. Takes the view that the provisions on pre-contractual information, the explanations required pursuant to Article 5(6) and the creditworthiness assessment provided for in Article 8 serve an important role when it comes to improving consumer awareness of the risks involved in taking out a loan in a foreign currency;

6. Calls, nevertheless, for supervisory authorities to require financial institutions to provide consumers with personalised, complete and easily understandable explanations regarding the risks involved in foreign currency lending, and regarding the impact on instalments of a severe depreciation of the legal tender of the Member State in which a consumer is domiciled as well as of an increase in the foreign interest rate; considers that these explanations should be provided before any contract is signed.

7. Takes note of the concerns raised in some Member States about the way pre-contractual information is presented to consumers through the Standard European Consumer Credit Information (SECCI) form and which is of such technical nature that it affects consumers' capacity to understand it effectively; considers that the efficiency of the SECCI form should be an important aspect in the assessment of the impact of the Directive carried out by the Commission;

8. Welcomes the 'sweep' operation, carried out by the Commission in September 2011, which revealed that 70 % of the financial institution websites checked failed to include relevant information in their advertising material, and certain items of key information in the credit offer itself, and contained misleading presentations of costs, and calls on the Commission and the Member States to take appropriate steps to remedy this problem; notes, in this context, that the rules on representative examples are sometimes not used as prescribed and that there is need for improvement;

9. Calls for the advertising and marketing practices of financial institutions to be strictly monitored in order to avoid misleading or false information in the advertising or marketing of credit agreements;

10. Notes that some Member States have taken up the option of extending the scope of the Directive to cover other financial products, a move which does not seem to have given rise to inconsistencies in application;

11. Emphasises that legal provisions should reflect standard practice and the needs of the average consumer and the average businessman, and should not represent a response to a small number of abuses of the rules in such a way as to render the information provided to the consumer less understandable, transparent and comparable;

12. Notes that more comprehensive provisions do not always make for more effective consumer protection and that, in the case of inexperienced consumers in particular, too much information can serve to confuse rather than help; acknowledges, in that regard, the expertise, assistance and financial education provided by consumer associations and their potential role in credit restructuring on behalf of households in distress;

13. Calls for consumers to have a right to be informed about the cost of additional services, and about their right to buy auxiliary services such as insurance from alternative suppliers; considers that financial institutions should be required to distinguish such services and related charges from those pertaining to the basic loan, and to make clear which services are essential to the extension of a loan and which are entirely at the discretion of the borrower;

14. Considers that more detailed consideration should be given to the problems which could arise in connection with the exercise of the right of withdrawal in cases where linked agreements have been concluded; stresses the importance of making consumers aware that, should they exercise of the right of withdrawal from a contract where the supplier or service provider directly receives the sum corresponding to payment from the credit provider through an ancillary contract, no fees, commissions or costs shall be borne by the consumers in relation to the financial service provided;

15. Calls on the Commission to assess the extent of non-compliance with information duties in contracts where intermediaries are not bound by pre-contractual information requirements in order to establish how best to protect consumers in such situations;

16. Takes the view that particular attention should be paid to the complicated rules on early repayment;

17. States that, prior to interest rate changes, notification to consumers should afford them enough time to survey the market and to change credit provider before the changes take effect;

18. Notes the need to clarify the interpretation of the term 'representative example';

19. Emphasises that a uniform method of calculating the annual percentage rate of charge should be laid down, that ambiguous provisions should be clarified and that consistency should be established with all other legal instruments;

20. Calls on the Member States to ensure that national supervisors are granted all the necessary powers and resources to discharge their duties; calls on the national supervisory authorities to monitor compliance with, and enforce, the provisions of the Directive in an effective way;

21. Stresses that, when setting transposition deadlines in future, greater account should be taken of such changes in national law that the transposition process entails;

22. Calls on the Member States to extend the existing level of consumer protection to credit, including short-term credit, provided over the internet, through short message services or other distance communication media, which are becoming an increasingly common feature of the consumer credit market, involving amounts below the lower threshold of EUR 200, presently outside the scope of the Directive;

23. Emphasises that at present there is no need to revise the Directive, but that instead priority should be given to ensuring that it is correctly transposed and enforced;

24. Takes the view that, in the furtherance of a full and correct transposition, the practical impact of the Directive should be assessed before the Commission proposes any required amendments; calls on the Commission to present to Parliament and the Council an assessment report on the implementation of the Directive and a full assessment of its impact regarding consumer protection, taking into account the consequences of the financial crisis and the new EU legal framework for financial services;

25. Instructs its President to forward this resolution to the Council and the Commission.