

Consultation response on the future of Electronic Commerce in the Internal Market and the implementation of the Directive on Electronic Commerce (2000/31/EC)

October 2010

EXECUTIVE SUMMARY

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Eurofinas is entered into the EC Register of Interest Representatives with ID N° 83211441580-56



ABOUT EUROFINAS

Eurofinas, the European Federation of Finance House Associations, is the voice of the specialised consumer credit providers in the EU. As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, specialised banks, captive finance companies of car, equipment, etc. manufacturers and universal banks. The scope of products covered by Eurofinas members includes all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, studies, furniture, electronic appliances, etc. It is estimated that together Eurofinas members financed over 320 billion euros worth of new loans during 2009 with outstandings reaching 720 billion euros at the end of the year.

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CURRENT TRENDS

Eurofinas recognises the growing trend in e-commerce¹, which offers the potential to increase the online sales of retail financial services.

The internet has enabled specialised consumer credit providers to develop online applications on their websites along with partnerships with retailers/motor dealers that allow consumers to apply for a consumer credit directly on a lender's website or on the website of the supplier of the good/service.

Additionally, technological improvement has proven to be key for the development of e-commerce in financial services (i.e. internet lending) with the creation of online simulations, electronic signatures and smart conversational agents.

E-commerce trends in financial services at national level

France

The development of online credit is a major trend. Credit providers have developed a diverse system of offering credit that is either available directly on the credit providers website or available as an ancillary service in conjunction with the online supply of goods and services.

Germany

As retailers increase their online presence, credit providers have begun to follow this trend. German credit specialists grant eight percent of their consumer loans online. Most of these are personal loans, and about one fifth are instalment credits for financing goods purchased through an online-shop, for example a computer.

In Germany, consumers are also increasingly appreciating the internet for facilitating credit price comparison. The recently published retail market monitoring report² reflects this German consumer sentiment. It mentions that e-commerce could "keep pressure on prices". The report also considers that there are services offering transparent, accessible, comparable, high-quality information to consumers on retail services in their own local and national market.

United Kingdom

Electronic commerce is relatively well-developed in the UK market. As the Commission reported in 2008, 57% of UK consumers had purchased goods or services over the internet. This is greater than anywhere other than the Nordic countries.

According to the Trading Standards Institute, 9% of UK retail trade is online.

Whilst credit providers offer loans via the internet, business remains predominantly face-to-face, for example in the motor dealership, or by telephone. Nevertheless, internet activity is on the rise.

¹ We note that 32% of individuals aged 16-74 in the EU bought or ordered goods or services for private use over the internet at least once in the last 12 months (source : Eurostat). Further, we recognise the fact that one third of EU citizens indicate that they would consider buying a product or a service from another Member State via the internet because it is better or cheaper (source: Commission staff working document, Report on cross-border e-commerce in the EU Feb 09 (SEC(2009) 283 final)). We also note that the number of people shopping on the internet has grown steadily, from 20% in 2004 to 26% in 2006 and 30% in 2007 (source: Eurostat).

² Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions – Retail market monitoring report: "Towards more efficient and fairer retail services in the internal market for 2020" – COM(2010) 355 final – 05.07.2010



THE ROLE OF E-COMMERCE IN PROMOTING ACCESS TO FINANCIAL SERVICES

In the EU-15 countries, two adults in ten lack access to transaction banking facilities and four in ten lack access to credit facilities. One third of people in the new Member States (EU-10) have difficulty accessing those financial services³.

E-commerce facilitates access to financial services such as consumer credit by making online access a possibility.

Prevention of financial exclusion

Financial exclusion can lead to a lack of access to jobs, vehicles, housing, education and health care. Access to financial services and notably access to credit can considerably decrease the lack of access to some of these core services/activities/products.

More accessible financial services, such as consumer credit promotes inclusion in the wider society. We note that financial exclusion is linked to social exclusion³. Access to financial services has become a necessary condition for participating in economic and social life.

Electronic commerce provides consumers with more accessible, and a wider choice of, financial services. It can represent an alternative choice from local or national traditional markets. Increased choice can lead to more diverse product offerings, potentially more market players thereby increased competition, cheaper prices and greater comparability of prices (through online tools such as price comparison websites).

OBSTACLES TO E-COMMERCE FOR CREDIT PROVIDERS

A number of obstacles to the online *cross-border* provision of retail financial services still exist.

Cultural differences are a major obstacle which prevents electronic commerce growth. This is not surprising considering the different methods of marketing being used across the EU and the standard consumer preference toward domestic providers which offer a greater sense of security.

Language difficulties are also a basic problem. According to an analysis carried out for DG SANCO on the distance marketing of consumer financial services⁴, consumers might be unable or unwilling to purchase products or services marketed in a foreign language.

The lack of harmonisation in Member States' consumer protection / financial services legislation and the uncertainties over cross-border debt recovery (in light of the differences in legal systems and court efficiency throughout the EU) are also barriers to the (on and off-line) cross-border provision of financial services. Continued efforts should be made to remove this existing obstacle, where possible.

³ Study on "Financial services provision and prevention of financial inclusion" (May 2008) – carried out on behalf of the Commission by Réseau Financement Alternatif (Belgium), the University of Bristol (UK), the University of Milan (Italy) and the Warsaw School of Economics (Poland).

⁴ DG SANCO – Analysis of the Economic Impact of Directive 2002/65/EC concerning the distance marketing of consumer financial services on the conclusion of cross-border contracts for financial services between suppliers and consumers within the Internal Market – Submitted by Civic Consulting of the Consumer Policy Evaluation Consortium – 5 September 2008



Anti-money laundering legislation

Importantly, another, more tangible obstacle to the national *and* cross-border provision of consumer credit are the customer due diligence (CDD) provisions, that stem from the Third Anti-money Laundering Directive 2005/60/EC (the “3rd AML”) and Commission Directive 2006/70/EC.

The above-mentioned legislation makes it particularly difficult for credit providers to conveniently conclude online contracts for such financial services.

This is because ‘*situations where the customer has not been physically present for identification purposes*’ are classified as higher risk transactions under the 3rd AML. This results in more stringent CDD obligations being placed upon credit providers in a distance transaction.

This can mean that a credit provider needs to see *inter alia* an official copy of the passport of a consumer, proof of the address of a consumer and/or a copy of the ID card of a consumer⁵.

For a consumer, the production of the documents mentioned above is burdensome as it would often mean sending the documents (or official copies i.e. notarised versions) to the relevant credit provider possibly based in another country. This process is time consuming and inconvenient for the consumer who may find it more convenient to visit a local provider of retail financial services⁶ rather than an online retailer.

Increasing the availability and use of electronic signatures could help to alleviate some of the administrative burden for both the consumer and credit provider when fulfilling the enhanced CDD measures needed to conduct retail financial services transactions, such as consumer credit, at a distance.

⁵ This is a generic list only; specific requirements vary between countries and can be stricter (source: Eurofinas member survey on customer due diligence requirements under the Third Anti-money Laundering Directive).

⁶ The cost of notarising the relevant documentation in order to create official copies may even outweigh any potential savings made by a consumer choosing a financial service provided in another country.