Eurofinas response to the European Commission's Green Paper "Towards an integrated European market for card, internet and mobile payments" (COM(2011) 941 final)

April 2012

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

For further information about this Eurofinas position, please contact: a.delava@eurofinas.org

GENERAL OBSERVATIONS

Eurofinas, the voice of specialised consumer credit providers at European level, welcomes the opportunity to respond to the European Commission's Green Paper on "Towards an integrated European market for card, internet and mobile payments". Revolving credit, including credit cards, constitutes a significant part of consumer credit providers' activities.

The Federation fully supports, in principle, the objectives of the Green Paper, namely more competition, more choice and transparency for consumers, more innovation and more payment security and customer trust.

Eurofinas notes that the European Commission is currently reviewing a number of pieces of legislation which are applicable to consumer credit providers and which relate to the topics covered in the Green Paper, such as: the Payment Services Directive[1] and the Data Protection framework.[2] In particular we remark that in the context of the review of the Payment Services Directive, the Commission has asked London Economics to carry out a study on the impact of the Payment Services Directive in the Internal Market and on the application of Regulation (EC) No 924/2009 on cross-border payments in the Community. It is our understanding that the results of the study, which will cover aspects also covered in the Green Paper, will not be finalised until mid-2012.

The Federation remains to be convinced that there is a need for the Commission to introduce (non-) legislative proposals at this stage in the area of payments or that many of the issues raised in the Green Paper would achieve the objectives it sets out to attain.

Should the Commission nevertheless proceed, future measures should take into account:

- The different nature and legal forms of consumer credit providers;
- The nature and role of the products consumer credit providers offer consumers; as well as
- The link between consumer credit and payment methods.

Please find further information on each of the above aspects below.

---

[1] *Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.*

[2] *Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM(2012) 11 final) and Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM(2012) 10 final).*

Who does Eurofinas represent?

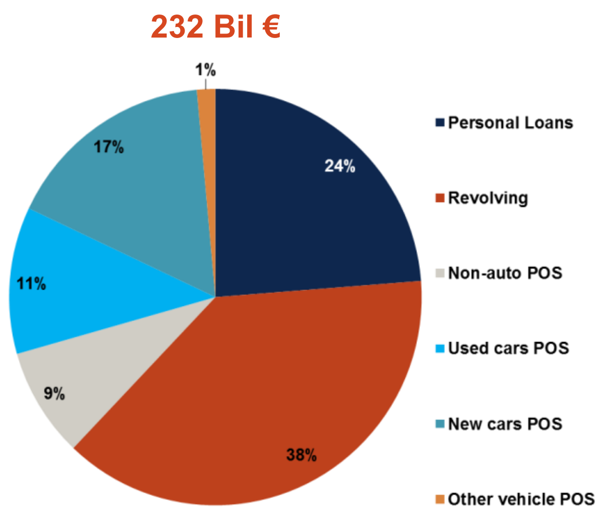
Eurofinas is the voice of consumer credit providers at European level. As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, specialised banks, universal banks and captive finance companies of car or equipment manufacturers.[3] The companies that Eurofinas represents may thus be of different nature or legal forms. Their core and principal activity is the provision of consumer credit products.

What are consumer credit products?

Eurofinas member companies provide a variety of different kinds of loans, the majority of which are granted to individuals. These loans can be divided into the following broad categories: personal loans, motor finance, store/credit cards and credit at the point of sale. The principal objective of consumer loans is to finance the acquisition of goods, services and vehicles.

The amount borrowed is usually limited, and products are often linked to local affinity partnerships. In 2010, Eurofinas members granted new loans worth €324.5 billion, of which €232 billion for personal loans and vehicle finance.

Please find below an overview of Eurofinas' members 2010 new consumer lending per product type.



[4]

Figure 1: Eurofinas market – Total Consumer Credit (personal consumption + consumer vehicle finance)
New lending by product type

Revolving credit, including credit cards, made up €88.8 billion of new credit granted and 8.3 million new contracts for revolving credit concluded in 2010. Of these 8.3 million contracts, 5.7 million concern new contracts for credit cards.[5]

Consumer credit facilitates access to assets and services as diverse as:
- Motor vehicles (cars, motorbikes, caravans)
- White goods (for example, large household appliances such as ovens and refrigerators)

---
[3] *Eurofinas member companies may also provide mortgage loans, industrial credit or business motor finance.*
[4] *Source: Eurofinas Statistics, 2010 Annual Survey.*
[5] *Source: Eurofinas Statistics, 2010 Annual Survey.*

- Brown goods (for example, audio/visual and electronic products such as televisions, radios and stereo sets)
- Home improvements (for example, in view of energy savings or large repairs)
- Education (student loans)

In this context, it should not be forgotten that the use of credit cards by consumers as a means of payment is intertwined with their need for and use of credit. Eurofinas firmly believes that due account should be taken of this in any future work of the Commission on payments.

SPECIFIC OBSERVATIONS

6) What are the potential benefits and/or drawbacks of co-badging? Are there any potential restrictions to co-badging that are particularly problematic? If you can, please quantify the magnitude of the problem. Should restrictions on co-badging by schemes be addressed and, if so, in which form?

7) When a co-badged payment instrument is used, who should take the decision on prioritisation of the instrument to be used first? How could this be implemented in practice?

With regard to the above questions, we would like to make a number of remarks concerning both co-branding (marketing campaigns and co-branding of consumer credit products) and co-badging (combining different payments brands on the same card or device).

One of the aims of the Green Paper is to increase innovation. Some of the innovation trends which Eurofinas identified amongst its membership include:

- Market segmentation (identifying and targeting market segments);
- Distribution channels (developing or optimizing cumulative or alterative use of direct and indirect distribution channels);
- Technological improvements (developing or adapting consumer credit products and services to the latest technological changes); and
- Marketing and co-branding.

It is worth highlighting the development of i) cobranded credit cards which can be associated to special services, advantages when consumers purchase goods in specific stores or can be used as a public transportation pass and ii) cobranded affinity cards: credit cards offered in association with a non-commercial organization (e.g. sports club, charity organization etc.).

The use of loyalty and reward schemes associated to credit cards is increasing as well as cash back mechanisms which allow consumers to benefit from specific discounts when purchasing a good/service with their credit card.

Crucial here for consumer credit providers is that co-branding as a business practice offering benefits to consumers can continue to exist. Co-branding is a business consideration for the providers in question which allows them to remain innovative and adapt their offers as the market develops.

The same applies to co-badging, which should be done on a voluntary basis. Co-badging should not become mandatory; it should remain up to individual providers to decide whether or not to co-badge their cards and with which schemes. Mandatory co-badging would risk undermining consumer choice. It would also remove incentives to compete and would hinder innovation, as consumers would be unable to differentiate between the services offered by payment cards.

Co-badging allows the consumer to have two payment applications in one card, which for many consumers constitutes a benefit. Here we would like to remark that prioritization is essentially the consumer's choice, either at the level of every transaction according to his/her own choice, or when he/she previously agrees with the issuing payment service provider which to use by default.

When a consumer wants to make a transaction at a merchant that accepts cards A and B, the consumer will choose to use A or B depending on the benefits provided by each card, for example, the flexibility offered in the payment terms. In fact, most likely the consumer will use by default his/her preferred option.

15) Should merchants inform consumers about the fees they pay for the use of various payment instruments? Should payment service providers be obliged to inform consumers of the Merchant Service Charge (MSC) charged / the MIF income received from customer transactions? Is this information relevant for consumers and does it influence their payment choices?

Eurofinas strongly believes in transparency and adequate information for consumers to allow them to make the right decisions for their needs, such as through the SECCI (Standard European Consumer Credit Information) provided for in the Consumer Credit Directive. In our view, caution should however be exerted to avoid overloading consumers with information.

We feel that the information on fees paid by merchants, MSC's and MIF income is very unlikely to be relevant for consumers to determine the payment method as well as credit product most suitable to their personal needs. We therefore oppose any such disclosure.

16) Is there a need to further harmonise rebates, surcharges and other steering practices across the European Union for card, internet and m-payments? If so, in what direction should such harmonisation go? Should, for instance:

– certain methods (rebates, surcharging, etc.) be encouraged, and if so how?
– surcharging be generally authorised, provided that it is limited to the real cost of the payment instrument borne by the merchant?
– merchants be asked to accept one, widely used, cost-effective electronic payment instrument without surcharge?
– specific rules apply to micro-payments and, if applicable, to alternative digital currencies?

In the context of the review of the Payment Services Directive (PSD), the Commission has asked London Economics to carry out a study on the impact of the Payment Services Directive in the internal market and on the application of Regulation (EC) No 924/2009 on cross-border payments in the Community.

The study will assess, amongst others, the practical and financial consequences of the application or non-application of the surcharging rule from the perspective of payment services providers, retailers and consumers.

Eurofinas feels that the functioning of the current market and rules in place through the PSD should be evaluated prior to any further measures being taken by the Commission.

Should measures be taken with regard to surcharging, due account should be taken of the effects such measures would have in practice. Local market characteristics vary significantly across the European Union and the same rules may have a very different impact in practice across the Member States.

28) What are the most appropriate mechanisms to ensure the protection of personal data and compliance with the legal and technical requirements laid down by EU law?

With regard to the issue of data protection, we would like to remark that the current legal framework is in the process of being reviewed. The European Commission published, on 25 January 2012, proposals for a new data protection framework which, once adopted, would set out the rules applicable to the processing of personal data in the EU and govern the processing activities carried out within a payment operation. Consistent implementation of future key principles and the detailed data protection requirements will ensure adequate protection of consumers and a level playing field between payment service and solution providers.

One of the issues that the Green Paper does not touch upon is the interconnection between fraud prevention and detection and data protection rules. We would like to refer to the work the Federation has recently conducted together with the Association of Consumer Credit Information Suppliers (ACCIS) on fraud and consumer lending resulting in the release of a report on fraud prevention and data protection.[6] Experience in practice, as set out in the report, has shown that the current data protection framework often does not permit the processing of data for fraud prevention and detection purposes.

Given the impact fraud can have on the individuals affected by fraud, on the lending institutions as well as on the economy and society at large, data processing - such as data access, sharing and storage - for the purpose of fraud prevention and detection should be considered a legitimate purpose within the framework of data protection legislation. The future EU framework for data protection should include a specific reference to fraud prevention and detection, **explicitly recognising processing of data for that purpose as legitimate**.

This issue goes hand in hand with the other efforts put in place by the industry to ensure a high level of security and thus consumer trust.

[6] *Fraud prevention and data protection – A Eurofinas – ACCIS report on fighting fraud in consumer lending, available here.*