



The Director General

European Commission
DG Markt

markt-retail-consultation@ec.europa.eu

Brussels, 4 July 2007

Re: Green Paper on Retail Financial Services in the Single Market

Dear Sir/Madam,

Eurofinas, the main voice of the specialised consumer credit industry at European level, welcomes the publication of the Green Paper on Retail Financial Services in the Single Market and the opportunity to comment thereon.

We support the Commission's efforts to create a single market for retail financial services and very much rely on DG Markt in that regard.

As far as credit intermediaries are concerned, we stress the importance of differentiating between entities that provide credit mediation to third parties for remuneration as their main activity (e.g. brokers, agents, etc.) and entities that practice credit mediation as an ancillary activity (i.e. dealers and retailers involved in the distribution of credit at the point of sale).

We emphasize the need to provide consumers with all, *but only*, useful information.

We further emphasize the importance of proper access to credit, as well as fraud, data.

Also we warn against product standardization.

You will find our comments below.

I stay at your entire disposal.

Yours sincerely,

Tanguy van de WERVE
Tel: 32 2 778 0561

EUROFINAS' COMMENTS ON THE GREEN PAPER ON RETAIL FINANCIAL SERVICES IN THE SINGLE MARKET (COM(2007) 226 FINAL)

1) Do you agree with the objectives and priorities set out in this paper?

- Yes, but the objectives should be prioritized. More choice, better prices and higher consumer protection is mission impossible: there is no free ride.
- A right balance must be found in order to open up retail financial services markets while enhancing consumer confidence.

2) Are there issues that are not covered in this Green Paper, which are important for the integration of retail financial markets and to which the Commission's attention should be drawn? For example, are consumers in their everyday life confronted with requirements or limitations from either financial services providers or other stakeholders (employers, social security, administrations, businesses, etc.) which restrict their ability to use cross border financial services (such as an obligation to have a bank account or insurance policy in one specific country, etc.).

- A catalogue of obstacles to cross-border consumer credit business was given in the recently published CIVIC Consulting and OXERA reports on the review of the Consumer Credit Directive.
- Lack of information on the consumer situation and difficulties in debt recovery outside their home country can explain operators' preference for direct establishment in other Member States rather than cross-border selling.
- As far as consumers are concerned, differences in culture, language and preferences are well-known natural obstacles.
- The marketing of financial products at a distance, and in particular on the internet, is an important tool to develop cross-border activities (coherency with the e-commerce Directive is necessary).
- Anti-money laundering requirements make it difficult to sell financial services at a distance.
- What average consumers are usually most interested in is to obtain a good deal.
- It should be recognized that the cost of consumer protection is invariably passed on to the consumer.
- 'Variation in prices' indicator should be handled with care. It is necessary to compare like with like.

- When it comes to the expectations and the protection of the consumers, it is useful to distinguish savings products from borrowings.

3) The Commission has undertaken several initiatives to improve consultation with consumers and to secure their input into its policy making. Should further steps be taken and, if so, what steps?

- DG SANCO and DG MARKT should better coordinate their actions.
- The Green Paper on Retail Financial Services is a DG Markt-driven initiative; yet there is a strong focus therein on consumer protection and few references to the benefits of the single market. We hope that DG Markt remains committed to the single market objective.

4) Is consumer choice unnecessarily limited by restrictions on the providers and channels through which they access retail financial services? What are, in your experience, these restrictions?

- Minimum harmonisation, gold-plating, inconsistency across Directives are such restrictions. They certainly act as a deterrent.

5) Despite efforts, in particular the creation of FIN-NET, the handling of cross border consumer complaints in the field of financial services still remains problematic. The Commission would welcome input as to the ways to improve the current situation. For example, should Member States be obliged to ensure that alternative dispute resolution (ADR) schemes are in place? Should providers be obliged to adhere to an ADR scheme? Should they be contractually obliged to offer ADR mechanisms to their clients?

- Adherence to ADRs should be encouraged, but not made compulsory.
- FIN-NET would benefit from enhanced publicity.
- Codes of good conduct proved successful in the UK, for example the FLA's Lending Code has been recognised by the Financial Services Authority (FSA) and the Financial Ombudsman Service (FOS) as a standard bearer in its provisions pertaining to credit assessment.

6) The creation of the Single Euro Payments Area (SEPA) offers challenges and opportunities for businesses and consumers alike. What do stakeholders think of SEPA's impact on consumers? Should consumers be more involved in the governance and the preparation of SEPA?

No comments.

7) With view to the launch of its study on credit intermediaries, later this year, the Commission would like to know whether stakeholders believe the current legislative framework to be sufficient and if consumers face any particular problems in dealing with credit intermediaries, particularly on a cross-border basis.

- Focus must be on consumer protection but also on the single market (single passport-type of considerations).
- There is a clear risk of over-regulation.
- There is a need for differentiated treatments depending on the type of intermediary.
- A clear distinction must be made between entities that provide credit mediation to third parties for remuneration as their main activity (e.g. brokers, agents, etc.) and entities that practice credit mediation as an ancillary activity (i.e. dealers and retailers involved in the distribution of credit at the point of sale). The role of the latter is very different from that of the former.
- Differentiating factors include, *inter alia*:
 - Dealers and retailers have no role in respect of the granting of credit other than collecting information on the consumer on behalf of the lender. The whole credit granting process (pre-contractual information, credit decision, ongoing contract servicing) is conducted by the lender.
 - Dealers and retailers take no part at all in any part of the credit decision.
 - The range of credit products available at the point of sale is limited.
 - There is no extensive advertising of the lender's brand at the point of sale.
 - Dealers and retailers do not act at the consumer's request and, consequently, receive no fee from him.
- Cost/benefit analysis is a must. It is worth emphasizing the very high number of dealers involved in the distribution of consumer credit at the point of sale and the extreme difficulty there would be in implementing any type of regulatory regime for dealers. This would drive up costs and invariably penalize the consumers (higher prices or dealers getting out of that ancillary activity).
- The Insurance Mediation Directive was very much gold-plated: neither the single market nor the average consumers will benefit from this. Any initiative in the field of credit intermediaries should aim at avoiding the difficulties created by the Insurance Mediation Directive for the intermediaries acting in an ancillary capacity.

- It is important to understand and to recognize the benefits of point-of-sale financing (*incl. in terms of cross-border provision of financial services*). The importance and advantages of the distribution of credit at the point of sale cannot be ignored by the decision-makers.

8) The Commission believes that it has an important role to play in developing a competitive, open and effective market for long-term savings, retirement and pension schemes that meet consumers' needs. Do stakeholders agree and how could the Commission contribute? Could an optional legal EU-wide regime ("28th regime") for savings and/or 3rd pillar pension products be envisaged?

No comments.

9) Do you think that there could be benefits for both banks and consumers, if banks would have the opportunity to offer an optional simplified standardized product, which would have a good level of consumer protection, would be easy to understand, and could be offered across borders without the need to be modified to fit local rules?

- There is no appetite from Member States to fully harmonize consumer protection legislation (CCD is a case in point). It is doubtful whether Member States would all of a sudden agree on a simplified standardized product...unless the level of protection it offers is as high as the most protectionist regime in the EU...in which case the product will simply not be offered (because of lack of demand due to high price).
- The industry is in favour of targeted full harmonization.
- We oppose product standardization as it stifles innovation, to the detriment of providers and consumers alike.

10) The Commission believes that more could be done to improve consumers' financial literacy and capability. Possible measures include developing guidelines or promoting best practices. The Commission would welcome input on how this policy should be further developed at the European level.

- Consumers' financial literacy and capability are important issues.
- Member States have a leading role to play in this, via e.g. an appropriate family and school public policy. National consumer groups could also play a useful role.
- The credit sector can possibly offer support via forms of co-financing projects.
- The Commission should draw on the feedback from participants to its 28 March 2007 conference on financial capability and on the findings of a study on financial literacy schemes in the EU which it commissioned earlier this year.
- Commission should talk about consumer *empowerment*, not consumer protection.

11) Do you think that, as they stand, the provisions on consumer information contained in financial services directives are adequate and consistent with one another? Were it not the case, how could the Commission ensure that information requirements are set at the right level, ensuring proper information but without creating any overload? Do you think that informing consumers is sufficient or that advice should also be provided? If yes, would that be compulsory or upon request?

- There are lots of inconsistencies, not only between Directives but also due to minimum harmonisation approaches.
- Coherence in the various information provisions is needed. Information has to be harmonised by sector in a full and targeted way in order to remove the existing artificial barriers to cross-border provision of retail financial services.
- It is inappropriate to overload consumers with too much and/or duplicated information, creating both excessive information for consumers and unnecessary burden and costs for lenders. The industry is concerned by the risk of overlapping application of existing Directives providing advertising and information requirements.
- The draft modified CCD proposal now lays down too many requirements for advertisement and pre-contractual information (Single European Consumer Credit Information). The result is that both concepts actually look the same, while they should be different and deserve distinct treatment.
- Enhancing consumer confidence can be achieved via a better protection of consumers' interests. This means better information, not more.
- As a consequence of the provider's due assistance to the consumer (providing the right information at the right time), it should be clear that the final decision as regards the choice of a given financial service/ product lies with the consumer himself.
- Advice should be provided upon request. Advice is an additional, and duly charged, service provided to the customer.
- If a Directive adopted by the Council and the European Parliament diverges significantly from a Commission's proposal and if, as a result, it is clear that the objective of the Directive will not be met, the Commission should propose to withdraw it instead of waiting 4-5 years before reviewing it.
- Over-regulation should be avoided: in practice customer satisfaction as well as prudent credit, reputation and litigation risk management drive the providers' behaviour.

12) Measures to improve lenders' access to credit data will be discussed in the context of the forthcoming White Paper on Mortgage Credit. The Commission believes that more could be done to promote the accessibility of credit data, in particular on a cross-border basis. Who should be able to access consumer credit data? How could the cross-border transferability of consumer credit data be improved, ensuring in particular that mobile credit data follows increasingly mobile consumers? Could a memorandum of understanding, ensuring smooth data circulation between credit bureaux, be a workable solution?

- We strongly welcome the Commission's intention to improve lenders' access to credit data and support the extension of this review to other fields of retail financial services, including consumer credit provision.
- All lenders should be able to access credit data as they have to assess a potential borrower's creditworthiness when deciding to grant a loan. Consequently, the restricted sharing of credit data, limited to banks in a closed user group, is not beneficial to the consumer lending industry as a whole. Furthermore, experience from countries allowing data exchange between banking and non-banking consumer credit providers reveals that non-banking data is particularly useful for banks to reduce their risk levels when entering into new markets.
- Cross-border access to databases is necessary for the further development of cross-border retail financial services. However, national implementation of the Data Protection Directive and local data protection authorities create barriers to data exchange which will undoubtedly have a negative impact on what the Commission is trying to achieve in this area.
- Moreover, access to credit databases should be on a non-discriminatory basis. All types of credit databases should be available for consultation, including those originating from central banks, credit registries, those facilitated by local trade associations or those set up by private companies. Foreign consumer credit providers should be able to consult national databases under the same rights and obligations as domestic lenders.
- We would support the development of a Memorandum of Understanding between the owners/controllers of such databases as it would facilitate the transferability of, and access to, data across borders. In comparison to legislation, a MoU approach would provide a flexible framework achievable in a shorter time period.
- Additionally, we would like to point out that the data protection barriers to data exchange mentioned above exist not only in the field of credit data sharing, but also when it comes to fraud data exchange.
- Indeed, both of these types of data are necessary for consumer credit providers to grant loans responsibly. Responsible lending includes not only the assessment of credit quality and the potential customer's ability to repay without being under duress but also involves understanding the likelihood of a fraudulent application

and the prevention of frauds such as identity theft. Moreover, the sharing of fraud related data is necessary to protect the consumer. Once a consumer's identity becomes compromised or is stolen, it is in his or her interest that lending institutions prevent the use of this identity by fraudsters in loan applications.

- However, even when operating on a purely national level, consumer credit lending institutions already have difficulties in accessing or sharing fraud-related data. It therefore seems improbable that this situation will be easier on a cross-border basis. The likely upshot is that either cross-border consumer credit will not be readily available or, if it is available, lenders will have to offset the additional fraud risk they face by providing more expensive loans. This in itself will not contribute to promoting the granting of consumer credit across borders.
- We therefore strongly encourage the Commission to extend its review of credit data sharing in the EU to include fraud data and to begin this exercise by examining local situations where national data protection legislations already hamper data exchange. In this context, we would support and be willing to take part in platforms for exchange between various stakeholders including Commission representatives, national data protection authorities and industry on sharing data to avoid consumer credit fraud.

13) Fragmentation of retail insurance markets, for example in the field of motor insurance, does not allow consumers to reap full benefits of EU integration in this area. Do you think that more should be done at EU level to address this fragmentation?

No comments.

14) Customer mobility and competition are closely associated. The Commission would welcome input as to how customer mobility could be enhanced. In particular, in the field of bank accounts, and as a follow-up to the Expert Group's work, would stakeholders see merits in, for example, having EU wide account switching arrangements? Will SEPA have an impact on customer mobility?

No comments.

About Eurofinas

Eurofinas is the main voice of the specialised consumer credit industry at European level. It currently represents 16 Member Associations, in turn bringing together more than 1,000 finance houses, captive companies, specialised and universal banks. Together, these consumer credit providers financed over 380 billion euros worth of new loans during 2006, an increase of 5.4% compared to 2005, with outstandings reaching 645 billion euros at the end of the year. Companies represented through Eurofinas employ some 85 000 individuals.

Consumer credit providers may be of several natures and our members' members can be grouped into the categories below. Around 90% of the companies represented through Eurofinas are specialised lenders, falling into the first three categories:

- Finance houses: specialised consumer credit providers without a banking licence;
- Captive companies: parent companies of these companies are manufacturers (e.g. car manufacturers). Captives may or may not have a banking licence;
- Specialised banks : institutions with a banking licence but an activity limited to consumer credit or/and mortgage lending; and
- Universal banks: banks providing all kinds of products retail, corporate, etc., including consumer credit.