

Credit agreements for consumers

2002/0222(COD) - 20/04/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Joachim WUERMEILING (EPP-ED, D), making several amendments to the Commission's proposals. The main amendments are as follows: - Member States may adopt higher standards of protection. Full harmonisation may be appropriate in some areas in order to ensure comparability between credit offers and thus further develop the internal market in credit for consumers; - Parliament excluded various types of loan from the directive, such as credit agreements of less than EUR 1,000 or more than EUR 50,000, further credit agreements secured either by a mortgage on immovable property, hiring and leasing agreements, private credit agreements, credit which an employer gives his employees as a subsidiary service and credit in the form of an advance on a current account or a debit account if the total amount must be paid back within three months or on demand. Parliament also excluded credit agreements whose conclusion is accompanied by the consumer depositing a security in the creditor's safe-keeping, where the surety deposited with the creditor is sufficient in itself to pay off the loan; - the standard information to be given by the creditor to the consumer must include, in the following order, and in a clear, concise and eye-catching form (info box), the annual percentage rate of charge, the agreed duration of the credit, the number and amount of monthly payments and the total cost of credit. Additional information, in particular in respect of taxes, repayment, any down payments required, and the size of instalments, may be provided separately. Where a lower borrowing rate is offered for a limited duration at the beginning of the credit agreement, the advertisement must contain the annual percentage rate calculated on the actual borrowing rate after that limited duration; - Parliament inserted a special clause relating to information requirements for overdrafts. The consumer must be informed at the time or before the agreement is signed about the credit limit, annual percentage rate of charge, of any change of this rate and the procedures and conditions for terminating the agreement. - in the case of cross-border credit, each Member State must ensure access for creditors from other Member States to databases in that Member State under the same conditions as for firms and individuals in that Member State. The consumer and the guarantor have to be informed of the results of any such consultation immediately and without charge; - Parliament deleted provisions in the original proposal relating to unfair terms; - Parliament also deleted provisions regulating charging for debt recovery; - given that credit unions in Ireland and the United Kingdom are restricted by a Common Bond, i.e. they are geographically restricted from operating outside their own local area, and given the fact that they play an invaluable role in providing credit to people that mainstream commercial lending institutions will not deal with and further, given that they are not-for-profit voluntary organisations they should not be subject to the strict regulations of the Directive; - the legislation establishes a Community-wide ground of defence for consumers based on objections in connection with linked credit agreements ('Einwendungsdurchgriff'). This does not, however, prevent the Member States from maintaining, in order to protect consumers, more far-reaching and stringent liability provisions, for example the principle applying in Great Britain of 'joint and several liability'. The Member States may also leave the conditions for the ground to be determined by a judicial decision; - the exercise of the right of withdrawal in the case of a linked agreement presupposes that the linked credit agreement is itself subject to the right of withdrawal; - Parliament amended several of the definitions in the text. Notably, it redefined the annual percentage rate of charge as meaning the annual interest rate which, on an annual basis, produces equality between the present values of the total present or future obligations (credit drawn down, amortisation payments and expenses) of the creditor and the consumer arising from the credit agreement and linked transactions. Member States may not depart from the rules on the annual percentage rate of charge laid down in the legislation; - Parliament rejected an approach to unsolicited doorstep selling of credit which is stricter than that laid down in Council Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises. Therefore, the text now permits door-to-door promotion of credit; - Parliament did not approve committee amendments restricting consumer's rights to withdraw from a credit agreement. Also, consumers may pay back loans before the period fixed in the agreement.