Credit agreements for consumers

2002/0222(COD) - 11/09/2002 - Legislative proposal

PURPOSE : to harmonise the laws, regulations and administrative procedures of the Member States concerning agreements covering credit granted to consumers and surety agreements entered into by consumers. CONTENT : the European Commission adopted today a proposal for a new directive on consumer credit. The existing EU-wide rules from 1987 have not kept pace with the important evolution in this sector and, at the same time, only set minimum standards. They have largely been overtaken by national regulation. The absence of common rules reduced cross-border transactions and led to differences in consumer protection in Member States. Harmonised consumer credit rules throughout the Union will not only increase the protection of consumers across borders but also their confidence and thus strengthen the functioning and the stability of the consumer credit market in the EU. To achieve these objectives the directive would need to be revised in a way that takes account of the following six guidelines: 1) a redefinition of the scope of the directive in order to ensure that it reflects the new situation on the market and is better able to draw the line between consumer credit and housing credit; 2) the inclusion of new arrangements that take account not only of creditors but also of credit intermediaries; 3) the introduction of a structured information framework for the credit provider in order to allow him to assess more fully the risks involved; 4) a specification requiring more comprehensive information for the consumer and any guarantors; 5) a fairer sharing of responsibilities between the consumer and the professional; 6) the improvement of the arrangements and practices that determine how professionals deal with payment defaults, both for the consumer and for the credit provider. The main elements of the proposal for a new consumer credit directive are as follows: - Enlargement of the scope to cover present-day realities: the new directive covers all consumer credit no matter the form (loan, hire-purchase, overdraft facilities, rolling credit, financial lease, etc.), amount (no floor, no ceiling) and any surety (a guarantor or a mortgage) or insurance. Regarding mortgage credit: The directive will cover mortgage-backed consumer credit ("equity release") but classical home loans remain outside the scope; - Improved transparency and comparability of credit offers: the classical concept "total cost of credit to the consumer", which is expressed in the "Annual Percentage Rate" (APR), is harmonised to improve comparability; - Consumer disclosure and lender respect: the borrower is obliged to disclose all relevant information when asked by the lender. In return, the lender must "know thy client" by advising on the most appropriate product in his product range and by conscientiously assessing the borrower's ability to repay before granting new credit ("responsible lending"); - Improved freedom of circulation of quality solvency data across borders: the lender's right of access to solvency data is strengthened. The quality of this data is strengthened by groundrules on the operation of existing databases on "payment incidents" (failure of consumers to reimburse); - Rights of withdrawal: within 14 days and free of charge and without justification and early repayment against, in most cases, payment of an indemnity; - Registration of lenders and credit intermediaries (except, for the latter, if another lender or intermediary covers) and ground rules for the operation of intermediaries; - Liability of lenders if suppliers of goods and services act as their credit intermediaries, e.g. in case of loans linked to a purchase (like a car loan) or of cards issued by retailers. Credit disconnected from sales such as credit by cards remain outside the scope; - Protection of personal guarantors: (right to same information as the borrower) and of consumers not fulfilling their contractual obligations (ground rules for repossession of goods and debt recovery). The latter rules not only protect consumers against abuse, they also improve lenders' scope for calculating the risk/cost of non-performance.