



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.03.1997

COM(97) 127 final

96/ 0055 (COD)

Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

**amending Directive 87/102/EEC (as amended by
Directive 90/88/EEC) for the approximation of laws, regulations and
administrative provisions of the Member States concerning
consumer credit: single mathematical formula for the Annual
Percentage Rate of Charge (APR)**

**(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)**

EXPLANATORY MEMORANDUM

Subject: Amended proposal for a European Parliament and Council Directive amending Directive 87/102/EEC (as amended by Directive 90/88/EEC) for the approximation of laws, regulations and administrative provisions of the Member States concerning consumer credit: single mathematical formula for the Annual Percentage Rate of Charge (APR).

1. BACKGROUND TO THE FILE

This is a proposal of a technical nature, made pursuant to article 1a paragraph 5(b) of Directive 87/102/EEC as amended by Directive 90/88/EEC, the main element of which is the requirement to use a single mathematical formula ("the EC formula") for calculating the APR for consumer credit.

The Commission submitted the proposal to the Council on 25.4.1996, with Article 100 A of the Treaty as the legal basis. It was transmitted to the Parliament on 15.4.1996.

The Opinion of the Economic and Social Committee was delivered on 26.9.1996.

The Opinion of the Parliament in the first reading was delivered on 19.2.1997.

2. AMENDMENTS OF THE EUROPEAN PARLIAMENT

The European Parliament proposed eight amendments concerning the following issues:

- the need for the adoption of a standard definition of the components of the APR alongside the harmonisation of the methods of calculation (am. n° 1);
- introduction of a standard (as opposed to natural), 365-day year (hence 1 month comprises $365/12=30.41666$ days) as the time basis for the calculation of the APR (am. n°s 2, 7);
- deletion of the logo (am. n°s 3, 5 and part of am. n° 4);

- deletion of the obligation to show the APR with a certain number of decimals (am. n° 8);
- deletion of the obligation to include in advertisements a statement of the APR by means of a representative example if no other means is practicable (part of am. n° 4);
- the transposition period: 1 January 1999 (am. n° 6).

3. MODIFIED PROPOSAL

Of Parliament's amendments the Commission has accepted those that respect the balance of its original proposal and contributes to its objectives, i.e. literally n°s 3, 4 (except part concerning suppression of representative example which concerns the base directive and not the technical issue of the proposal), 5 and 6 and has taken into consideration n°s 2 and 7.

The Commission rejects amendment n°1 as it does not share the view expressed.

The Commission has modified its original proposal accordingly.

The changes are as follows:

- rejection of the idea of the logo;
- expression of the time intervals between dates used for the calculation in calendar years or in standard years (12 months of equal size of 30.41666 days);
- transposition no later than 1 January 1999.

**ORIGINAL PROPOSAL OF THE
COMMISSION**

AMENDED PROPOSAL

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the
European Community, and in particular Article
100a thereof,

Unchanged

Having regard to the proposal of the
Commission ⁽¹⁾,

Having regard to the opinion of the Economic
and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid
down in Article 189b of the Treaty ⁽³⁾,

Whereas it is desirable, in order to promote the
establishment and functioning of the internal
market and to ensure that consumers benefit
from a high level of protection, that one method
of calculating the annual percentage rate of
charge should be used throughout the European
Community,

Whereas Article 5 of Council Directive
87/102/EEC ⁽⁴⁾ provides for the introduction of
a Community method or methods of calculating
the annual percentage rate of charge for
consumer credit;

Whereas, in order to introduce this single
method, it is desirable to draw up a single
mathematical formula for calculating the annual
percentage rate of charge and for determining
the credit cost items to be used in the
calculation by indicating those costs which must
not be taken into account,

Whereas Annex II of Directive 90/88/EEC ⁽⁵⁾
introduced a mathematical formula for the

⁽¹⁾ OJ N° C 235, 13.8.96, p. 8

⁽²⁾ OJ N° C 30, 30.1.97, p. 94

⁽³⁾

⁽⁴⁾ OJ N° L 42, 12.2.87, p. 48

⁽⁵⁾ OJ L 61 10.3.90 p. 14

calculation of the annual percentage rate of charge and Article 1.2 of Directive 90/88 provided the charges to be excluded from the calculation of the 'total cost of credit to the consumer',

Whereas during a transitional period of three years from 1 January 1993, Member States which prior to 1 March 1990 applied laws which permitted the use of another mathematical formula for calculating the annual percentage rate of charge, were permitted to continue to apply such laws,

Whereas the Commission has submitted a Report (6) to the Council which makes it possible, in the light of experience, to apply a single Community mathematical formula for calculating the annual percentage rate of charge,

Whereas, since no Member State has made use of Article 1a(3) of the Directive by which certain costs were excluded from the calculation of the annual percentage rate of charge in certain Member States, it has become obsolete,

Whereas accuracy to two decimal places and the use of a 365 or 366 day year is necessary,

Whereas accuracy to two decimal places is necessary,

Whereas the annual percentage rate of charge should be calculated on the basis of a uniform calculation method which assumes either a calendar, 365 (or for leap years 366) day year or a standard, 365 day year,

Whereas it is desirable that consumers should be able to recognise the terms used in different Member States to indicate the 'annual percentage rate of charge', and that the use of a common symbol, in addition to the existing term, should be mandatory in all consumer credit advertisements and written agreements with consumers throughout the European Community.

Whereas it is desirable that consumers should be able to recognise the terms used in different Member States to indicate the 'annual percentage rate of charge',

HAVE ADOPTED THIS DIRECTIVE:

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Deleted

(6) COM(96)79

Whenever the term "annual percentage rate of charge", or the equivalent term in another Community language, is used as required by Directive 87/102, it shall be accompanied by the following symbol:

Article 2

Article 1

Article 1a(1)(a) shall be replaced by the following: Unchanged

- in the Greek language version of the Directive:

Το συνολικό ετήσιο πραγματικό ποσοστό επιβάρυνσης που εξισώνει σε ετήσια βάση τις παρούσες αξίες του συνόλου των τρεχουσών ή μελλοντικών υποχρεώσεων (δανείων, εξοφλήσεων και επιβαρύνσεων) που έχουν αναληφθεί από το δανειστή και το (δανειζόμενο) καταναλωτή, υπολογίζεται σύμφωνα με το μαθηματικό τύπο που παρατίθεται στο παράρτημα II".

- in the English language version of the Directive:

The annual percentage rate of charge which shall be that rate, on an annual basis which equalises the present value of all commitments (loans, repayments and charges), future or existing, agreed by the creditor and the borrower, shall be calculated in accordance with the mathematical formula set out in Annex (II).'

Article 3

Article 2

Article 1a(3) shall be deleted.

Unchanged

Article 4

Article 3

Article 1a(5) shall be deleted.

Unchanged

Article 5

Deleted

Article 3 shall be amended as follows:

Without prejudice to Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising ⁽⁷⁾, as amended by Council Directive /96 of 1996 concerning comparative advertising ⁽⁸⁾, and to the rules and principles applicable to unfair advertising, any advertisement, or any offer which is displayed at business premises, in which a person offers credit or offers to arrange a credit agreement and in which a rate of interest or any figures relating to the cost of the credit are indicated, shall also include a statement of the annual percentage rate of charge, accompanied by the symbol as mentioned in Article 1 of this Directive, by means of a representative example if no other means is practicable.

Article 6

Deleted

Article-4(2)(a) shall be amended as follows:

- '(a) a statement of the annual percentage rate of charge, accompanied by the symbol as mentioned in Article 1 of this Directive;'

Article 7

Article 4

Annex-I attached hereto shall become Annex II, Unchanged replacing Annex II of Directive 87/102 (as

(7) OJ N° L 250, 19.9.1984, p. 17

(8)

amended by Directive 90/88).

Article 8

Annex II attached hereto shall become Annex III, replacing Annex III of Directive 87/102 (as amended by Directive 90/88). **Unchanged**

Article 5

Article 9

1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive no later than 31 December 1996 and shall inform the Commission thereof.

When Member States adopt those measures, they shall include references to this Directive or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.

2. The Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive no later than 1 January 1999 and shall inform the Commission thereof.

Unchanged

Unchanged

Article 10

This Directive is addressed to the Member States.

Article 7

Unchanged

Annex I

Annex II

Annex I

Annex II

THE BASIC EQUATION EXPRESSING THE EQUIVALENCE OF LOANS ON THE ONE HAND AND REPAYMENTS AND CHARGES ON THE OTHER

THE BASIC EQUATION EXPRESSING THE EQUIVALENCE OF LOANS ON THE ONE HAND AND REPAYMENTS AND CHARGES ON THE OTHER

$$\sum_{K=1}^{K=m} \frac{A_K}{(1+i)^{tK}} = \sum_{K'=1}^{K'=m'} \frac{A'_{K'}}{(1+i)^{tK'}}$$

Unchanged

where:

- K is the number of a loan,
- K' is the number of a repayment or a payment of charges,
- A_K is the amount of loan number K,
- A'_{K'} is the amount of repayment number K',
- Σ represents a sum,
- m is the number of the last loan,
- m' is the number of the last repayment or payment of charges,
- t_K is the interval, expressed in years and fractions of a year, between the date of loan No. 1 and those of subsequent loans Nos. 2 to m,
- t_{K'} is the interval, expressed in years and fractions of a year, between the date of loan No. 1 and those of repayments or payments of charges Nos. 1 to m',
- i is the percentage rate that can be calculated (either by algebra, by successive approximations, or by a computer programme) where the other terms in the equation are known from the contract or otherwise.

Remarks

- (a) The amounts paid by both parties at different times shall not necessarily be equal and shall not necessarily be paid at equal intervals
- (b) The starting date shall be that of the first loan

Remarks

Unchanged

(c) Intervals between dates used in the calculations shall be expressed in years or in fractions of a year. A year is presumed to have 365 or 366 days

(c) Intervals between dates used in the calculations shall be expressed in years or in fractions of a year. A year shall be taken to be either: (i) a calendar year comprising 365 or - for leap years - 366 days, or (ii) a standard year comprising 365 days, 52 weeks or 12 equal months. An equal month is presumed to have 30.41666 days (i.e. 365/12).

(d) The result of the calculation shall be expressed with an accuracy of 2 decimal places. If the figure at the third decimal place is greater than or equal to 5, the figure at the second decimal place shall be increased by one.

(d) Unchanged

Annex II

Annex III

EXAMPLES OF CALCULATION

Unchanged

ISSN 0254-1475

COM(97) 127 final

DOCUMENTS

EN

06 09 10

Catalogue number : CB-CO-97-115-EN-C

ISBN 92-78-17245-6

Office for Official Publications of the European Communities

L-2985 Luxembourg