

EUROPEAN PARLIAMENT

# Working Documents

1982-1983

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DOCUMENT 1-1180/82

SECOND REPORT

drawn up on behalf of the Legal Affairs Committee

on the proposal from the Commission of the European Communities to the Council (Doc. 10/79) for a directive relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit

Rapporteur: Mr C.J. PROUT



By letter of 16 March 1979, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 100 of the EEC Treaty, on the proposal from the Commission of the European Communities to the Council for a directive relating to consumer credit.

On 30 May 1979 the President referred this proposal to the Legal Affairs Committee as the committee responsible and to the Committee on the Environment, Public Health and Consumer Protection for its opinion.

On 10 October 1979 the Legal Affairs Committee appointed Mrs VAYSSADE rapporteur.

On 20 November 1979 the Committee examined the proposal for a directive in the light of an introductory statement by the rapporteur. At its meeting of 27-28 March 1980 the Committee noted that 67 amendments had been tabled to the draft report (PE 59.430); it decided to postpone consideration and adoption of the draft report in order to study them in detail.

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On 28 April 1980 the Committee first considered Amendment No. 1 tabled by Mr PROUT, Mr MEGAHY and Mr GOPPEL, which questioned the existence of a legal basis in the EEC Treaty for the proposal. The amendment was adopted, with 10 votes for, 7 against and 2 abstentions. Since the text of the amendment replaced the Motion for a Resolution in its entirety, the Committee took no further votes on the draft report or on the amendments.

Present: Mr FERRI, Chairman, Mrs VAYSSADE, first rapporteur, Mr PROUT, second rapporteur, Mr CHAMBEIRON, Lady ELLES (replacing Mr TURNER), Mrs EWING, Mr GEURTSSEN, Mr GILLOT, Mr GONELLA, Mr HENCKENS (replacing Mr MODIANO), Miss HOOPER (replacing Mr DALZIEL), Mr JANSSEN van RAAY, Mr LUSTER, Mrs MACCIOCCHI, Mr MALANGRE, Mr PELIKAN, Mr PETERS (replacing Mr VETTER), Mr SIEGLERSCHMIDT, Mr TYRRELL.

In view of the Committee's decision, Mrs VAYSSADE asked to be replaced as rapporteur. On the Chairman's proposal, Mr PROUT, first signatory of the amendment, was appointed in her stead. The Committee instructed the new rapporteur to draft the accompanying explanatory statement to reflect the Committee's views (see Doc. 1-161/80).

By a vote of 11 votes to 1 with 4 abstentions, however, the Committee decided on 9 July 1980 to instruct its rapporteur to ask for reference back to Committee under Rules 26. This request was granted by the Parliament at its plenary session of 10 July 1980.

When the question next came before the Committee on 21 October 1980 Mr FREEDMAN (Commission representative) announced that the Commission wished to submit a paper discussing the problem of Article 100 EEC as the directive's legal basis and setting out a comparative study of national legislation on consumer credit (see Notice to Members No. 29/80, PE 67.867).

The Committee had an exchange of views on the basis of the working documents, with the Commission of the European Communities, at its meetings of 20 and 21 October 1980 and 27 and 28 October 1980. By 12 votes to 1, with 2 abstentions, the Committee adopted a preliminary observation on 25 November 1980 to the effect that

"following new elements provided by the Commission, the Committee has decided to withdraw the motion for a resolution adopted on 28 April 1980 and consequently to discuss the proposal for a directive (Doc. 10/79) relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit."

The Committee considered the Commission's proposal and the draft second report at its meetings of 2 and 3 December 1981, 5 and 6 April, 29 and 30 April, 26 and 27 May, 23 and 24 June, 19 and 20 October, and 23 and 24 November 1982.

At the last meeting, the Committee decided with 8 votes in favour and 3 abstentions to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The Committee then adopted the motion for a resolution as a whole with 8 votes in favour and 3 abstentions.

The following took part in the vote: Mrs VEIL, chairman; Mr LUSTER and Mr TURNER, vice-chairmen; Mr PROUT, rapporteur; Mr D'ANGELOSANTE, Mr GEURTSSEN, Mr MEGAHY, Mr PONIRIDIS, Mr TYRRELL, Mrs VAYSSADE and Mr VETTER (deputising for Mr SIEGLERSCHMIDT).

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The opinion of the Committee on the Environment, Public Health and Consumer Protection is attached.

C O N T E N T S

	<u>Page</u>
Amendments to the Commission's Proposal .....	7
A. MOTION FOR A RESOLUTION .....	23
B. EXPLANATORY STATEMENT .....	25
 Annex: Opinion of the Committee on the Environment, Public Health and Consumer Protection .....	 37

ARTICLE 1

1. This directive shall apply to credit agreements.

1. Unchanged.

2. For the purposes of this directive:

2. Unchanged.

a) "Consumer" means a natural person not acting predominantly in a commercial or professional capacity.

b) "Creditor" means a natural or legal person who grants credit in the course of his commercial activity or business or a group of such persons.

b) Unchanged.

c) "Credit agreement" means an agreement whereby a creditor grants a consumer credit in the form of deferred payment, a loan or a promise to grant a loan or other financial accommodation and under which the consumer repays the credit, including any interest and charges in more than one instalment.

No. 1

c) "Credit agreement" means an agreement whereby a creditor grants or promises to grant a consumer credit in the form of a deferred payment, a loan (seven words deleted) or other financial accommodation and under which the consumer repays the credit including any interest and charges in more than one instalment.

TEXT PROPOSED BY THE COMMISSION OF  
THE EUROPEAN COMMUNITIES

Article 1(2)(d)

d) "Effective annual rate of interest" means the total cost of the credit expressed as an annual percentage of the amount of the credit granted including interest and all other charges; the effective annual rate of interest shall be calculated in accordance with the rules laid down by the Member States.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 2

Article 1(2)(d)

d) "Annual percentage rate of charge" means the total cost of the credit expressed as an annual percentage of the amount of the credit granted. The total cost of the credit will include, in particular, interest and (one word deleted) any other charges which arise under

- i) the credit agreement itself;
- ii) any transaction entered into to comply with the credit agreement;
- iii) any other contract which the creditor insists on the consumer or a relative of his making or maintaining as a condition of being granted the credit;
- iv) any contract for security relating to the credit agreement; and
- v) any statutory obligation connected with the making of the credit agreement.

The matters set out for (i) to (iv) inclusive do not include premiums payable in contracts of insurance when the choice of the insurer is left to the consumer.

Within one year of the entry into force of this directive, the Commission shall issue a decision establishing a uniform method of calculating the annual percentage rate of charge.

TEXT PROPOSED BY THE COMMISSION OF  
THE EUROPEAN COMMUNITIES

3. An agreement for the supply of goods or the provision of services concluded with a consumer

a) which is financed by means of a credit agreement between a supplier and a consumer, or

b) which is financed by means of a credit agreement between a creditor and a consumer, insofar as the creditor cooperates with the supplier in the performance of the agreement for the supply of goods or the provision of services

shall also be deemed to be a credit agreement within the meaning of paragraph 2.

4. Member States shall adjust the provisions of this Directive in applying them to credit agreements between a broker and a consumer.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

3. Unchanged

a) Unchanged

b) Deleted

Unchanged

No. 3

4. Member States shall apply the provisions of this Directive mutatis mutandis to credit agreements involving an intermediary.

ARTICLE 2

1. This directive shall not apply to

a) credit agreements or agreements promising to grant credit intended primarily for the purpose of acquiring property rights in land or in an existing or projected building or intended for the purpose of renovating or improving a building.

b) hiring agreements

1. This directive shall not apply to

No. 4

a) credit agreements or agreements promising to grant credit intended primarily for the purpose of acquiring or retaining property rights in land or in an existing or projected building or intended for the purpose of renovating or improving a building.

No. 5

b) hiring agreements under which the title does not ultimately pass to the hirer

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

c) agreements, in particular for the supply of goods or the provision of services under which the consumer is granted a period not exceeding three months within which to pay the price stipulated in the agreement

d) subject to the provisions of Article 8, credit in the form of advances on a current account granted or accepted by a credit institution or financial institution other than credit cards.

e) amounts greater or less than particular sums to be fixed by the Commission for a Member State which so requests after consultation with that Member State

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

c) Unchanged

d) Unchanged

No. 6

e) agreements involving amounts less than 200 or more than 30,000 units of account, the amounts to be adjusted periodically by the Commission in line with the average annual rate of inflation in the Community.

TEXT PROPOSED BY THE COMMISSION OF  
THE EUROPEAN COMMUNITIES

Article 2(2)

2. Where the provisions of paragraph 1(e) above are applied, Member States concerned shall take steps to ensure that the provisions on consumer credit are not circumvented as a result of the way in which agreements are formulated in particular by the device of distributing the amount of credit over several agreements

ARTICLE 3

Without prejudice to the general rules on misleading and unfair advertising, an advertisement in which a person offers to conclude or arrange credit agreements, and in which costs relating to the credit are indicated, shall show the total cost. Where a percentage is given, the effective annual rate of interest must also be indicated.

ARTICLE 4

Member States may prohibit unsolicited visits to a consumer at his home at his place of work or elsewhere for the purpose of proposing to him the conclusion of a credit agreement.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 7

Article 2(2)

Where the provisions of paragraph 1 above are applied, Member States concerned shall take steps to ensure that the provisions on consumer credit are not circumvented as a result of the way in which agreements are formulated in particular by the device of distributing the amount of credit over several agreements

No. 8

Without prejudice to the general rules on misleading and unfair advertising, any advertisement in which a person offers to conclude or arrange credit agreements, and in which any rate is expressed or implied to be the rate of charge or interest, shall also indicate the annual percentage rate of charge, by example if no other means is appropriate.

No. 9

A credit agreement for the supply of goods or services resulting from an unsolicited visit to a consumer at his home, his place of work or elsewhere and concluded in some place other than the place of business of the creditor or negotiator shall be subject to cancellation by the consumer by notification to the creditor within a cooling-off period of not less than seven days from the

conclusion of the agreement. This  
right of cancellation shall be made  
known to the consumer by clear written  
notice given to him not later than  
the time of the conclusion of the  
agreement.

For the purposes of this Article  
a period of approval during which  
the consumer has possession of the  
goods and may return the same free  
of charge shall be deemed to be a  
cooling-off period.

No. 10

ARTICLE 5

Any person willing to conclude or  
arrange credit agreements shall  
clearly display, at those of his  
business premises to which the  
public has access, the annual rate  
of interest and other costs relat-  
ing to the credit which he grants or  
arranges, and/or a notice to the  
effect that the consumer may request  
an offer which shall be binding on  
such a person if he grants the  
credit. He shall in both cases  
give examples of the effective  
annual rate of interest in respect  
of given sums.

Any person willing to conclude or  
arrange credit agreements shall  
clearly display at those of his  
business premises to which the  
public has access the annual  
percentage rate of charge of the  
credit which he grants or arranges  
and/or a notice to the effect that  
the consumer may request an offer  
which shall be binding on such a  
person if he grants the credit.  
He shall in both cases indicate  
the annual percentage rate of charge  
in respect of given sums, by example if no  
other means is appropriate.

No. 11

ARTICLE 6

1. Credit agreements shall be made  
in writing. All credit agreements  
shall be signed by both parties.  
The facsimile signature of the  
creditor shall suffice. The con-  
sumer shall received a copy of the  
written agreement.

1. Credit agreements shall be made  
in writing. (Two sentences deleted)  
The consumer shall receive a copy of  
the written agreement.

No. 12

2. The written agreement shall contain the essential contractual conditions and at least the following particulars:

(a) for credit agreements for the supply of goods or the provision of services;

- (i) a description of the goods or services covered by the agreement;
- (ii) the cash price and the credit price where this differs from the cash price;
- (iii) the effective, annual rate of interest; where the cash price and the credit price are different;

2. The written agreement shall contain (5 words deleted) at least the following terms:

No. 13

(a) for credit agreements for the supply of particular goods or (three words deleted) services.

(i) unchanged

(ii) unchanged

(iii) the annual percentage rate of charge (one phrase deleted)

(iii) a

details of the insurance contract if any and, where appropriate, the cost of the insurance when the choice of the insurer is not left to the consumer

(iv) the amount of the deposit (if any) and the due dates, the number and amount of the instalments;

(iv) the amount of the deposit (if any) and the due dates, the number and amount of the instalments or the method of ascertaining any of the same, if unknown at the time of agreement.

(v) the terms covering any rebate for early repayment;

(v) an indication that the borrower may, in certain circumstances, be entitled to a rebate for early repayment;

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

(vi) who owns the goods and the terms under which the consumer becomes the owner of the goods;

(vii) details of the security required (if any);

(b) for credit agreements in the form of credit cards:

- (i) a means of identifying the credit card;
- (ii) the credit limit (if any);
- (iii) annual rate of interest (if any) and the amount of any charges;
- (iv) the terms of repayment;

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

(vi) unchanged

(vii) unchanged

(viii) the cooling-off period, if any

(ix) the conditions and methods applicable to changes in the rate of interest

No. 14

(b) for credit agreements operated by credit cards:

- (i) the serial number of the credit card, if known
- (ii) unchanged
- (iii) the annual percentage rate of charge
- (iv) unchanged
- (v) the cooling-off period, if any
- (vi) the conditions and terms applicable to changes in the rate of interest

The provisions of paragraph 6(1) and paragraph 6(2)(a) shall not apply to an agreement for the supply of goods or the provision of services concluded with a consumer, which is financed by means of an existing credit agreement operated by a credit card

No. 15

(c) for credit agreements in the  
form of running accounts not other-  
wise covered by this directive:

(i) the limit of credit or the  
method of determining the  
same

(ii) the annual percentage rate  
of charge

(iii) the terms of use and  
repayment

(iv) the cooling-off period,  
if any

(v) the conditions and terms  
applicable to changes in  
the rate of interest

The provisions of paragraph 6(1)  
and paragraph 6(2)(a) shall not  
apply to an agreement for the  
supply of goods or the provision  
of services concluded with a  
consumer, which is financed by means  
of an existing credit agreement in  
the form of a running account not  
otherwise covered in this Directive  
between the same supplier and the  
same consumer.

No. 16

(d) unchanged

(i) unchanged

) for other credit agreements falling  
within the scope of this Directive:

(i) the amount or limit of the  
credit or - in the case of a  
promise to grant credit - the  
amount or limit of the credit  
proposed;

TEXT PROPOSED BY THE COMMISSION OF  
THE EUROPEAN COMMUNITIES

- (ii) the annual rate of interest and any other charges;
- (iii) the effective annual rate of interest unless a promise of a loan is concerned, in which case that rate shall be specified at the date when the loan is taken up;
- (iv) an indication of the security required (if any);
- (v) the terms of repayment.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

- (ii) the annual percentage rate of charge
- (iii) unchanged
- (iv) the security required, if any
- (v) unchanged
- (vi) the cooling-off period, if any
- (vii) the conditions and methods applicable to changes in the rate of interest

ARTICLE 7

The laws of each Member State shall lay down the legal consequence of failure to respect the provisions of Article 6.

Unchanged

ARTICLE 8

Notwithstanding the exclusion provided for in Article 2(1) (d) the consumer shall be informed in writing in the case of credit in the form of an advance on a current account within the meaning of Article 2(1) (d)

- a) at the time the agreement is concluded:
- of the credit limit (if any)
  - of the annual rate of interest and the charges applicable from the time the agreement is concluded and the conditions under which it may be amended
  - of the procedure for terminating the agreement.

b) during the period of the contract credit agreement, of any change in the annual rate of interest or in the relevant charges at the time it occurs. Such information shall be given in a bank statement if such statements are sent at intervals of one month or less.

c) ~~when~~ a tacitly accepted overdraft extends beyond a period of three months, of the annual rate of interest and any relevant charges, and of any amendment thereto.

Unchanged

No. 17

- a) at the time or before the agreement is concluded:
- of the credit limit (if any)
  - of the annual rate of interest and the charges applicable from the time the agreement is concluded and the conditions under which it may be amended
  - of the procedure for terminating the agreement

No. 18

b) during the period of the (~~2 words deleted~~) agreement, of any change in the annual rate of interest or in the relevant charges at the time it occurs. Such information shall be given in a bank statement if such statements are sent at intervals of three months or less.

c) Unchanged

ARTICLE 9

1. A credit agreement shall be void from the time the creditor repossesses, either on the basis of a right of ownership or of any other right, the goods supplied under a credit agreement.

2. Member States shall lay down rules to ensure that repossession of goods does not lead to unjustified disadvantages to any of the parties involved.

1. Unchanged

∟ Corrigendum to the English text: this paragraph should read:

"A credit agreement shall be deemed to have been repudiated by the creditor on repossession of the goods supplied under a credit agreement, either on the basis of a right of ownership or of any other right." 7

No. 19

2. Member States shall lay down rules to ensure that repossession of goods or early termination of a credit agreement does not lead to unjustified disadvantages to any of the parties involved.

No. 20

3. Where the consumer has repaid one third or more of the credit price of the goods, the creditor may not recover possession of goods supplied under a credit agreement over which the creditor has a right of ownership or any other right except on order of a court.

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 21

4. Where goods are recovered  
by the creditor in contravention  
of the rules laid down in implemen-  
tation of paragraph 2 the credit  
agreement shall terminate, the  
consumer shall be released from  
all liability under the agreement  
and shall be entitled to recover  
from the creditor all the sums  
paid to him under the agreement.

No. 22

ARTICLE 10

The consumer shall be entitled to discharge his obligations under a credit agreement before the time fixed by the agreement; in this case interest and other charges shall be refunded in accordance with the provisions adopted by the Member States

The consumer shall be entitled to discharge his obligations under a credit agreement before the time fixed by the agreement; in this event the consumer shall be entitled to an appropriate reduction in the total amount payable (or to an equivalent refund if the whole amount has already been paid) in accordance with the rules laid down by the Member States.

ARTICLE 11

Unchanged

ARTICLE 12

In the operation of credit agreements:

b) cheques may be used only as a means of payment.

In the operation of credit agreements:

No. 23

a) cheques may only be used as a means of payment;

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

a) bills of exchange, other than cheques and promisory notes may not be used either as security or as a means of payment;

ARTICLE 13

1. Where the consumer proves the existence of cooperation as referred to in Article 1(3)(b), and where the goods are not supplied or the services are not provided, and where he is not responsible for such failure to supply the goods or services, he shall, provided he has the right under the laws of the Member State concerned to recover from the supplier payments made by him and to refuse further payment, enjoy the same right in relation to the creditor.

2. The consumer shall have the same rights under the conditions specified in paragraph 1 where the goods supplied or services provided do not conform to the agreement.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 24

b) Subject to a), negotiable instruments shall not be used either as security or as a means of payment.

No. 25

c) If a consumer becomes liable to a holder in due course of a negotiable instrument, the creditor shall indemnify him in respect of that liability.

No. 26

1. Where it is established that an arrangement exists between a supplier of goods or services and a creditor by which the supply is to be financed by a loan or loans to the consumer, and where, in such a case, the goods are not supplied or the services are not provided and where the consumer is not responsible for such failure to supply the goods or services, he shall be entitled to recover from the supplier or from the creditor, or either of them, all payments made by him under the agreement, and may refuse to make any further payment to either of them in respect thereof.

No. 27

2. The consumer shall have the same rights under the conditions specified in paragraph 1 where the goods supplied or services provided do not conform to the agreement in circumstances where such failure to conform would entitle the consumer to rescission of the contract under the applicable national law.

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

3. In the cases referred to in paragraphs 1 and 2, the supplier and creditor shall be jointly and severally liable to the consumer for any repayment of sums paid.
4. This Article shall not prejudice any other rights of the consumer against the supplier or rights of the creditor against the supplier.

ARTICLE 14

1. Member States shall provide that:
- a) persons offering to conclude or arrange credit agreements shall obtain official authorisation, or
  - b) persons concluding or arranging credit agreements shall be subject to inspection of their activities by an official body, or
  - c) a body be set up to examine complaints from individual consumers concerning credit agreements entered into by or offered to them as well as to receive complaints from consumer organizations concerning credit agreements or credit conditions offered to consumers.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 28

3. In the cases referred to in paragraphs 1 and 2, the supplier and creditor shall be jointly and severally liable to the consumer, (six words deleted)
4. This Article shall not prejudice any other rights of the consumer against the supplier or rights of the creditor against the supplier.

No. 29

Subject to any agreement to the contrary, the creditor shall be entitled to be indemnified by the supplier from any loss arising from its operation.

1. Member States shall provide that:
- a) Unchanged
  - b) Unchanged

No. 30

- c) a body be empowered to examine complaints from individual consumers concerning credit agreements entered into by or offered to them as well as to receive complaints from consumer organizations concerning credit agreements or credit conditions offered to consumers.

TEXT PROPOSED BY THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

d) if persons referred to in paragraph (a) above satisfy the definition in Article 1 of the First Coordinating Directive on Banking Activities, they may not receive official authorization to exercise their activity before they have received banking authorisation.

Where banking authorization is withdrawn, official authorization to carry on their activities in the consumer credit field shall also be withdrawn.

2. The body referred to in paragraph 1(c) shall be empowered to examine the complaints it receives to advise consumers on the legal protection to which they are entitled and to institute legal proceedings on their behalf where they do not wish to exercise their rights but are willing to let the body act for them.

AMENDMENTS PROPOSED BY THE  
LEGAL AFFAIRS COMMITTEE

No. 31

2. If persons offering to conclude or arrange credit agreement satisfy the definition in Article 1 of the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions\*, they may not receive official authorization to exercise their activity before they have received (1 word deleted) authorization under the provisions of that directive.

No. 32

Where (1 word deleted) authorization under the provisions of that directive is withdrawn, official authorization to offer to conclude or arrange credit agreements shall also be withdrawn.

No. 33

3. Any body empowered under paragraph 1(c) to receive complaints shall also be empowered to examine the complaints it receives to advise consumers on the legal protection to which they are entitled and to institute legal proceedings on their behalf where they do not wish to exercise their rights but are willing to let the body act for them.

ARTICLES 15 - 18 unchanged

\*OJ No. L 322 of 17.12.1977, p. 30

A.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit.

The European Parliament,

- having regard to the proposal from the Commission to the Council (1),
- having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 10/79),
- having regard to the second report of the Legal Affairs Committee and the opinion of the Committee on the Environment, Public Health and Consumer Protection (Doc. 1-1180/82),
- having regard to the result of the vote on the Commission's proposal,

(1) OJ C 80, 27 March 1979, page 4

- (a) bearing in mind that such a directive would facilitate the growth of a common market in consumer credit, while at the same time provide for a Community-wide standard of legal protection for the consumer against unfair conditions of credit
- (b) noting that nothing in the directive would prevent Member States from adopting or retaining more stringent standards to protect consumers which are consistent with their obligations under the Treaty
1. Approves the proposal for a directive on consumer credit subject to the amendments which have been adopted;
  2. Requests the Commission to include those amendments in its proposal pursuant to the second paragraph of Article 149 of the Treaty establishing the European Community;
  3. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT

1. This is the Second Report drawn up by the Legal Affairs Committee on this Proposal. In the First Report (Doc. 1-161/80) published on 25 June 1980, the Committee argued that the Commission had failed to justify, either by evidence or by argument, the existence of a legal basis for the proposed Directive. It accordingly requested the withdrawal of the Proposal.

2. On 8 October 1980, the Commission submitted a substantial Working Paper on the Proposal (Notice to Members No. 29/80, PE 67.867) which sought both to fill the evidential gaps and to take issue with the Legal Affairs Committee on a number of points of principle. The Committee is grateful to the Commission for its quick and thorough response. At the same time it would like to point out that it had requested such a response on numerous occasions in the past but to no avail. It regrets that confrontation was necessary to obtain it.

3. The legal basis for the Proposal is set out in a Preamble containing five Recitals. In its first Report the Legal Affairs Committee considered each Recital in turn in the light of the written and oral submissions available to it at that time. It concluded that insufficient evidence or argument was advanced to validate any one of the five. The Commission Working Paper, in rebuttal, adopts a similar procedure. Taking each Recital in turn, it considers the Legal Committee's criticisms and seeks to refute them. In doing so it has made out precisely the kind of case in support of its position that the Legal Affairs Committee has hitherto sought in vain.

4. The Legal Affairs Committee considers that no purpose would now be served by further argument on the legal basis. Constitutionally, it is the function of the Court, not of Parliament, to pronounce on the validity of Community legislation. Where a Commission Proposal manifestly lacks a properly argued legal basis it is the duty of Parliament to require the

the Commission to provide one. That is part of our legislative function and we fulfilled this duty in our First Report. We should not, however, attempt to usurp the role of the Court when considering arguable questions of law upon which there is no clear authority, as in the case here. Indeed, it would be impolitic to do so lest the Court reach an entirely different conclusion! Moreover, it is the duty of Parliament to uphold the reputation of the law. It should not lay itself open to the charge, however false, of using legal argument as a means of opposing draft legislation which is really opposed politically.

### THE AMENDMENTS

Unless the contrary is indicated in the text below, the amendments adopted by the Committee were those proposed by your Rapporteur.

#### PREAMBLE:

5. For the reasons stated above, the Committee has decided not to amend the Recitals.

#### ARTICLE 1(2)(a)

6. Whatever the definition of consumer adopted by the legislator it is bound to be controversial. This is because it will reflect his political judgement as to who needs protection. Should, for example, the small businessman be included? Is it, indeed, the function of consumer legislation to protect commercial interests at all? Should it comprise transactions in goods intended for both private and commercial consumption? Such issues can only be resolved in the last resort by political judgements which are bound to be contentious. Moreover, the question of who needs protection is inseparable from further questions of how much protection they should have. Clearly, the larger the number and type of transactions caught by the legislation, the more difficult it is to impose a uniformly strict degree of protection.

7. Since the standards envisaged by the proposed Directive are strict, and there seems little point in legislating at all if they are not, the Committee

favours the general approach adopted by the Commission in defining a consumer which limits the scope of the Directive to the private individual purchasing for domestic consumption. Some argued that sole traders, partnerships or small companies are in just as weak a bargaining position as the private individual. But the Committee was not prepared to accept this view. It believed that it was the prevailing state of supply and demand in the market place, rather than the relative size of the negotiators, that determined market power. Imbalances caused by market imperfections, moreover, should be rectified by monopolies and restrictive practices - not consumer protection - legislation. The Rapporteur proposed that the text be amended to give concept greater clarity. First, he wished to make it clear that the test as to whether or not the purchaser is "acting" in a commercial or professional capacity applies solely to the particular transaction in question and not generally: and second, to exclude a purchaser holding himself out as so acting. However, his proposals were not acceptable to the Committee.

8. We believe that the word "predominantly" provides a less than satisfactory solution. It could be read as any percentage between 51 and 99 percent and lead to widely different interpretations of the text by the national courts of the ten Member countries. At the same time we recognise that it would be wrong to exclude from the protection of the legislation, for example, someone who purchases his car principally for private use but who also drives it commercially. There will, of course, be difficult cases for the courts to decide in circumstances where the goods or services in question can be used for both domestic and commercial purposes. But we believe that this solution is better than laying down a requirement for exclusively private use. The national courts would, in this case, almost certainly relax this rule as case law develops to avoid manifest injustice.

#### ARTICLE 1 (2)(c)

9. We can see no logical reason for exempting categories of credit by reason of the number of repayment instalments. The abuses against which the

legislation is designed to guard are equally likely to be present whether the credit is to be repaid in one or a number of instalments.

10. The Commission draft, however, exempts agreements in which principal and interest are repaid in "no more than one" instalment. This would exclude, for example, pawnbrokers' agreements. Your Rapporteur therefore drafted an amendment to replace "more than one" by "one or more". He proposed a compensating amendment in Article 2 to exclude interest and charge free open account credit provided by shops from the scope of the Directive. He believed that this approach conformed better with the general scheme of the Proposal setting out General Rules in Article 1 and Exemptions in Article 2. The Committee refused to follow him.

11. We are, it also follows, unable to accept the suggestion made by the House of Lords Scrutiny Committee, that agreements under which the number of payments to be made by the debtor does not exceed four, should be exempted. Indeed, this exemption is not applied uniformly even in British legislation. The UK Consumer Credit (Exempt Agreements) Order 1980 (S3(2)B) does not apply the four instalments exemption to hire purchase or conditional sale agreements. The House of Lords Report was, of course, published in July 1979 but the 1977 Order was in similar terms. It is unclear to what extent the reasons for exemption or non-exemption of particular classes of credit from this rule were examined by the House.

#### ARTICLE 1(2)(d)

12. The disclosure to consumers of the true cost of credit is, perhaps, the single most important function of consumer credit legislation. Here the Commission Draft Proposal is defective in two respects. First, it employs two descriptions of cost: "the effective annual rate of interest" and the "annual rate of interest". There seems little doubt that the concepts are intended to differ because the Proposal requires, in Article 6, that both rates should appear in certain types of credit agreement. The Committee believes that the obligation on the creditor to cite different rates would

tend to confuse the prospective borrower. It has decided, therefore, to rely on a single measure of cost throughout the legislation which it calls "the annual percentage rate of charge". This description is, accordingly, instituted for both descriptions used by the Commission wherever they appear in the Proposal.

13. The Commission Proposal is also defective in failing to provide a uniform system for calculating "the effective annual rate of interest" or what we now call "the annual percentage rate of charge". The Proposal merely states that it shall be calculated "in accordance with the rules laid down by the Member States". Given that so much emphasis has been placed in the Recitals upon the importance of creating a single credit market, this omission is especially puzzling. Indeed, it is wholly inconsistent with the stated objective of establishing a common market in credit transactions. To remedy this second defect, a new Article 1(2)(d) defines the Annual Percentage Rate of Charge, sets out its essential components and obliges the Commission to "issue a decision establishing a uniform method of calculating" the annual percentage rate of charge "within one year of the entry into force of the directive".

14. The definitions contained in the Committee's Amendment to Article 1(2)(d) are modelled on those used in the British legislation<sup>1</sup>. The Committee considered the difficulties raised in classifying items such as stamp duties and legal expenses which, essentially, reimburse the creditor for expenses he incurs in effecting the transaction and do not form part of his return. Should they be treated as a charge to the debtor or as forming part of the sum advanced to him? Following United Kingdom practice, the Committee decided to classify them as charges. The purpose of Article 1(2)(d) is to measure the cost of credit to the debtor; the fact that they yield no profit to the lender is, therefore irrelevant. The Committee also decided to include, as items of charge, financial obligations under associated transactions such as insurance contracts. A well established practice in certain quarters is to charge moderately in the main contracts but onerously in the ancillary transactions. However, an exception is made, in the case of ancillary contracts

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<sup>1</sup> The Consumer Credit (Total Charge for Credit) Regulation made in 1977 under The Consumer Credit Act, 1974.

of insurance, when the prospective borrower is free to choose his own insurer:

#### ARTICLE 1(3)(b)

15. This paragraph, the notorious "deeming" provision, is deleted on the grounds that it is both unnecessary and confusing. It adds nothing to the protection accorded to the consumer elsewhere in the Proposal and has the effect of needlessly converting many agreements for the supply of goods or provision of services into regulated credit agreements. Article 13 has been redrafted to provide for joint and several liability of supplier and creditor where an arrangement between them exists. This will be sufficient to prevent any circumvention of the Directive. Your Rapporteur failed to persuade the Committee that Paragraph 1(3)(a) should also be deleted on the ground that it was purposeless.

#### ARTICLE 1(4)

16. Consumer credit intermediaries advise prospective borrowers on the most appropriate type and source of credit to finance their intended purchase. Intermediaries are not necessarily solely in the business of broking although they may be. For example, a motor car dealer who introduces potential purchasers of his product to a finance house is so acting. The drafting changes here are not meant to alter the intentions behind the Commission's draft but merely to express them more accurately. There are Accession Treaty precedents for the use of the expression mutatis mutandis.

#### ARTICLE 2(1)(a)

17. Article 2 is concerned with exempting certain categories of consumer credit agreements from the general provisions of Article 1. Article 2(1)(a), excluding from the scope of the Directive all mortgages raised to finance house purchase and maintenance while including those raised for other purposes, is sensible. The difficulty, as usual, is knowing exactly where to draw the line. The Committee has limited itself to making one drafting change to give this distinction greater clarity. Your Rapporteur failed to gain support in the Committee for a further amendment intended to make a

clear distinction between money raised to alter, enlarge or repair the fabric of the building itself, and money raised to finance the addition of fixtures "improving" the building, such as central heating or double glazing. Credit agreements financing the purchase of such fixtures should in his opinion clearly fall within the terms of the legislation.

ARTICLE 2(1)(b)

18. The amendment here is designed simply to make it clear that the exclusion applies to hiring and not hire purchase.

ARTICLE 2(1)(c)

19. Your Rapporteur failed to convince the Committee that there is no logical reason why such agreements should be less susceptible to the evils the legislation is designed to guard against than longer agreements.

ARTICLE 2(1)(e)

20. The Committee was convinced of the necessity of a lower limit below which credit transactions should not be regulated, simply on grounds of economy. There comes a point when the added expense and time involved in fulfilling the requirements of the legislation is too high a cost for society to pay for the added protection to consumers. But who decides what this lower limit should be? The Commission text states that the sum should be "fixed by the Commission for a Member State which so requests after consultation with that Member State." This formula is unacceptable to the committee. Firstly, it sanctions the existence of different lower limits in each of the ten Member States thus striking at the heart of the main object of the Proposal which is to enhance the prospects for a common market in consumer credit. Secondly, it gives no lead as to precisely what the lower limit should be. The Committee has, therefore, amended this paragraph both to introduce the necessary uniformity and to set an appropriate lower limit. Against the advice of your Rapporteur, the Committee adopted a similar procedure for setting an upper financial limit to the value of credit transactions above which the legislation will not apply. It took the view that any consumer proposing to borrow such a sum would or should take appropriate professional advice.

21. If advertisements make any reference to the terms upon which credit is made available, the Commission text requires the advertiser to state the rate of charge. The Committee regards this Article as essential. Full disclosure of the rate of charge in advertisements is important not only because it reduces the likelihood of misrepresentation but also because it encourages competition between suppliers of funds to the consumer credit market. Indeed, some experts argue that disclosure at the advertisement stage is more important than disclosure at the time of contracting, by which time the consumers' financial options will be much more limited. Of course, the credit standing of a substantial number of consumers is so poor that they are often obliged to take what they can get. Moreover, the emphasis upon the rate of charge may itself be misleading. For example, where it is the seller that extends credit, part of the credit charge can be hidden in the cash price. Or, in a country with high inflation, a higher rate of charge may be more than compensated for by a longer period within which to repay the loan.

22. While fully agreeing with the objectives of the Commission text, the Committee has modified it so that its obligation may be fulfilled, where necessary, by way of example. In certain circumstances the advertiser may not be in a position to state the annual percentage rate of charge. Advertisements for revolving credit arrangements, in particular, illustrate this difficulty. But it will also apply whenever the consumer is free to choose the nature of the security, the number of repayment instalments or the length of the repayment period.

ARTICLE 4

23. This Article is intended to protect the consumer from high pressure doorstep selling. However, the Commission's proposed Draft leaves the degree of protection entirely in the hands of the individual Member States. Once again, your rapporteur takes the view that such an approach is inconsistent with the declared objectives of the legislation as set out in the Recitals. He has, therefore, deleted the Commission's text and replaced it with a text introducing a "cooling off" period for consumer credit arrangements concluded as a result of unsolicited doorstep visits. The consumer may cancel the agreement by notifying the creditor within seven days of its conclusion. A period of approval in an agency mail order catalogue agreement shall be deemed to be a cooling off period.

## ARTICLE 5

24. The Committee made minor changes in this Article to conform with amendments previously made. They rejected a proposal by your Rapporteur to delete "and/or a notice to the effect that the consumer may request an offer which shall be binding on such a person if he grants the credit." An offer is always binding upon the offeror the moment it becomes part of an agreement.

## ARTICLE 6

25. The main problem with Article 6, which sets out the essential items to be included in the credit agreement, is to decide precisely how much detail a Directive of this character ought to contain. The Committee took the view that the individual types of credit instrument differ sufficiently to require separate treatment. In particular, it decided to draft a new section to deal with the peculiar difficulties raised by running accounts. Here the borrower has an open-ended credit line on which he can draw up to a pre-negotiated limit, paying interest only on the outstanding balance. Regular repayments top up the account. This instrument saves the purchaser from concluding a separate credit agreement for each commodity or services transaction. In this context, the Committee amendments make it clear that agreements for the supply of goods and services financed by means of an existing running account agreement between the same supplier and the same consumer should not be subject to the requirements of Article 6. These apart, the remaining amendments are tabled to conform with earlier changes.

## ARTICLE 8

26. The Commission's text remains almost entirely intact. The only change of note is to require that bank statements be sent at intervals of three months rather than one month.

## ARTICLE 9

27. Until recently, the laws of Member States were extremely severe on borrowers who failed to meet their pecuniary obligations on time. In some cases the creditors had the right to terminate the purchaser's interest in goods and services even though payment was almost complete. While approving the

objectives of this Article 9, the Committee believe that the Commission text is too vague to provide both the necessary guarantees to the consumer and at the same time, the necessary harmony to the market. It has amended the text accordingly.

#### ARTICLE 10

28. The redrafting of Article 10 is also intended to provide a more equitable balance between the interests of borrower and lender than necessarily flows from the Commission proposal. The borrower should have the right to obtain a refund of interest not due and charges not already incurred. Equally, the lender should not be penalised for incurring a disproportionately large proportion of his costs at the time the agreement was made. The Committee took the view that the ground rules for such reimbursement are better left to Member States.

#### ARTICLE 12

29. The problem here is that, in certain circumstances, the creditor is the assignee of rights contained in a negotiable instrument. As such, he is a "holder in due course" and the debtor cannot set up against him defences available against the assignor. For example, a supplier may be paid by means of a negotiable instrument which he then discounts to the finance house. If the supply contract is then defectively performed, the debtor cannot reduce his payments to the finance house on the grounds of defective performance. As "a holder in due course", the finance house cannot be penalised by a dispute between the original parties. It is for this reason that the Commission decided to prohibit the use of negotiable instruments as either security or as means of payment in consumer credit transactions. The Committee amendments attempt merely to give the Commission text more precision and scope.

#### ARTICLE 13

30. Credit is either supplier unconnected or connected. Bank overdrafts, cash loans or credit card facilities are examples of supplier unconnected credit instruments. In each case the lender is genuinely independent. He is neither introduced to the borrower by the supplier nor does he introduce the borrower to the supplier. If the credit is supplier connected it may be either a two-party or a three-party transaction. Hire purchase, running

accounts and conditional sales are examples of two-party transactions. Here, the credit is extended by the supplier (i.e. the legal supplier) and there is only one contract. Finance house instalment sale agreements and certain types of credit card arrangements are examples of three-party transactions. In the former, the supplier introduces the prospective purchaser to the finance house; in the latter, the credit card company canvasses prospective purchasers. In this case, there are three parties - supplier, creditor and purchaser/debtor - and two contracts, one for supply and the other for credit.

31. Historically, the courts have compartmentalised connected transactions. Lenders supplying funds to purchase goods from particular suppliers were allowed to enforce in full the repayment provisions of the loan contract even if the goods were defective or, indeed, not supplied at all. Now the climate is changing. There is a trend towards subjecting the creditor not only to those defences and rights of set-off that are available to the debtor against the supplier, but also to a joint positive liability with the supplier for breaches of the contract of supply. The United Kingdom Consumer Credit Act 1974, for example, so provides in circumstances where a credit agreement is made in pursuit of an existing arrangement or in expectation of a future one.

32. The Committee has amended the Commission draft to provide for the deletion of Article 1(3)(b), to shift the burden of proof in establishing the existence of an arrangement between supplier and creditor from the consumer in all circumstances to whoever needs to rely on its existence in the course of litigation, and generally to give greater precision to the Commission intention.

#### ARTICLE 14

33. The amendments aim to set out with greater clarity the alternatives open to Member States. Article 14(1)(d) becomes a separate paragraph 14(2) and is redrafted to refer to the banking directive by its correct title and to delete the term "banking authorisation" which is not used in it. Article 14(2) is redrafted (it becomes Article 14(3)) to ensure that it does not appear to be compulsory for Member States to set up such a body. An alternative solution would be to delete the paragraph altogether, but this might be interpreted as an anti-consumer move. Some concern was expressed

that the automatic withdrawal of official authorisation to offer to conclude or arrange credit agreements, following withdrawal of authorisation under the first "banking directive", could act oppressively. Your Rapporteur undertook, if possible, to table an appropriate amendment during the relevant plenary session.

#### ARTICLE 16

34. Against the advice of your Rapporteur, whose reasons were given in his first report, the Committee sustained the Commission's text.

OPINION OF  
THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER PROTECTION

Draftsman: Mrs V. SQUARCIALUPI

On 25 September 1979 the Committee on the Environment, Public Health and Consumer Protection appointed Mrs Vera SQUARCIALUPI draftsman.

It considered the draft opinion at its meetings of 24 and 25 January and 28 February 1980 and adopted it at the latter meeting by 8 votes to 3 with 4 abstentions.

Present: Mr Collins, chairman; Mr Johnson, Mrs Weber, vice-chairmen; Mr Ceravolo replacing Mr Segre, Mr Forth replacing Mr Sherlock, Miss Hooper, Mrs Maij-Weggen, Mr Mertens, Mr Muntingh, Mr Newton Dunn, Mrs Pruvot replacing Mrs Scrivener, Mrs Schleicher, Mrs Seibel-Emmerling, Mrs Spaak, and Mrs Squarcialupi.

## I. EXPLANATORY STATEMENT

Whilst welcoming the Commission's proposal in general, the Committee considers that consumers' interests would be better served if certain changes could be made in the draft directive.

### Credit agreements excluded from the application of the directive

Article 2 (1) (a) excludes mortgage credit from the directive on the grounds that it would be difficult to adapt the various national provisions to a general rule. The Committee cannot agree with this derogation. Because of the large sums of money involved in these credits, it is precisely in the property sector that the consumer must be better protected and informed. The differences in national legislation on other types of consumer credit are also considerable. The exclusion of mortgage credit from the proposal for a directive is therefore unjustified.

Article 2 (1) (c) excludes agreements that expire within three months. But even short-term credit agreements require legal guarantees that protect the weaker contracting party, and should therefore fall within the scope of the directive.

### Contents of Agreements

Article 6 provides that credit agreements must be in writing and should contain "the essential contractual conditions" amongst which must be at least the particulars listed. These will not suffice. The agreements should also include clauses limiting the power of the stronger contracting party so that he cannot, for instance, demand immediate repayment of the funds in the event of the consumer falling into arrears. A clause should also be inserted allowing the consumer to terminate the agreement at short notice by early settlement of his obligations (as provided in Article 10). The principle of fair interest should also be established (i.e. prohibition of exorbitant rates of interest).

The compulsory clauses to be included in all types of credit agreements should also include one prohibiting compounded interest, i.e. the calculation of interest on interest. When a consumer has to pay interest on arrears, almost all creditors calculate the interest on the amount of each unpaid instalment due. The instalment, however, is made up partly of capital and partly of interest and thus the creditor demands a larger sum of money from the consumer than he would legally be entitled to if compounded interest were prohibited. All creditors therefore should calculate the interest on arrears only on the capital component of the unpaid instalment due, and should therefore specify how much of the credit is capital and how much interest. Even in countries such as Italy where compounded interest is prohibited under the Codice civile, the principle is violated;

- (a) when the consumer asks the creditor if he can repay the credit in advance;
- (b) when the creditor asks for advance repayment of the sum borrowed because the consumer is in arrears with his payments. In the latter case, creditors demand a sum that includes the interest due and future interest as well as the capital plus unpaid interest due.

The Commission proposal has omitted to make reference to optional running account agreements. These are contracts between sellers and buyers (the sellers being shops or mail order organisations). In the present wording of the directive, any purchase by the buyer on the basis of a contract would be subject to the provisions of Article 6 (the information expressly referred to in this Article must also appear in the original contract). This would unnecessarily complicate the administrative work and would cause an increase in costs without giving any benefit to the consumer or the seller. Provisions should be introduced to dispense with this obligation, possibly by making these contracts subject to regulations similar to those referred to in Article 6 (2) (b), for credit cards rather than those for credit contracts in Article 6 (2) (a).

#### Repossession of goods

The explanatory note on Article 9 states that the purpose of the article is to prevent the creditor, in the event of a delay in payment by the consumer, from recovering possession of the goods supplied on credit until he receives payment of the full instalment price, thereby depriving the consumer of use of the goods yet compelling him to pay the agreed price. This is unclear and moreover does not seem to completely accord with the text of Article 9, which is, however, also unclear. Paragraph 2 says that "Member States shall lay down rules to ensure that repossession of goods does not lead to unjustified disadvantages to any of the parties involved", and paragraph 1 which says that "A credit agreement shall cease to have effect from the time the creditor repossesses, either on the basis of a right of ownership or of any other right, the goods supplied under a credit agreement" would seem to be just such a rule, the only such therefore which would be laid down at Community level.

## General

Articles 13 and 14 are more specifically designed to provide effective consumer protection in the credit sector. Article 14, on the setting up of a body to receive consumers' complaints and institute legal proceedings on their behalf, does not however specify what its composition should be. This could be to the consumers' disadvantage when national implementing legislation is adopted.

In general, the directive lays down rules on consumer information and protection in the consumer credit sector, but provides only minimum guarantees. To provide any real protection, however, credit purchasing would have to be limited in advance by means of legal instruments that formed part of an economic policy aimed at combatting the risks of inflation.

In brief, one could be favourably disposed to extending the consumer credit system but not in an inflationary way. That is to say, the aim of increasing demand for consumer goods should be its negative effects on inflation rather than its beneficial effects on production.

Credit should not therefore be offered indiscriminately. The aim should be to facilitate transactions that have a positive influence especially as regards goods that are used to produce other goods and that are not themselves finished products.

When the banks have excess liquidity, they offer credit on easy terms. Consumers then apply for loans from the banks and incur debts. Care should be taken to ensure that consumer credit does not provide an incentive to further debt. The whole credit system should be coordinated in a comprehensive consumer protection policy. Financial backing must be provided to those who produce and not to those who squander or desire unnecessary goods.

A substantial number of members of the Committee expressed their disagreement with the ideas contained in the preceding four paragraphs and in paragraph 8 of the conclusions below. However, the Committee voted to maintain these paragraphs.

## II. CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Protection therefore calls on the Legal Affairs Committee to take into account the following points in drawing up its report:

1. Mortgage credit, excluded from this directive, should be dealt with as soon as possible in a separate proposal for a directive in view of the substantial loans made in this area;

2. Agreements that expire within three months should not be excluded from the directive;
3. Special provisions should be introduced for optional running account agreements;
4. Account must also be taken of the fact that as at present drafted the directive might mean that the consumer who seeks to use a credit card would need to renegotiate or re-establish his credit agreement in respect of each individual transaction where he wishes to use the credit card, and that this would have a most detrimental effect upon consumer and trading interests;
5. The guarantees offered to the weaker contracting party are incomplete in view of:
  - (a) the fact that the financier may demand immediate repayment of the funds in the event of a delay in payment;
  - (b) the lack of provision for a clause allowing the consumer to withdraw from agreements concluded with door-to-door salesmen within one week;
  - (c) the lack of any provision prohibiting compounded interest, i.e. the calculation of interest on interest on arrears;
  - (d) the fact that the Commission has not been precise enough about the rules which are to be laid down by the Member States to prevent a creditor repossessing the goods supplied under a credit agreement if the consumer delays payments;
  - (e) the lack of provision for licensing arrangements for lending institutions, so that disreputable operators are excluded from the outset;
6. The directive should give the consumer better protection against unsolicited visits to his home, place of work or any other place;
7. Fuller details should be given of the composition of the body to be set up to examine complaints from consumers so that consumers are guaranteed real protection;

8. The directive in question provides only minimum guarantees of consumer protection; the committees concerned therefore should adopt a position - for their respective areas of responsibility - on the limitation of credit purchasing by means of legal instruments that form part of an economic policy aimed at combatting inflation by providing greater credit facilities for transactions that may have a positive anti-inflationary influence and are therefore directed mainly at producers rather than those who want sometimes superfluous goods;

9. Article 1, paragraph 4 of the proposal for a directive should be amended to read:

"This directive shall apply *mutatis mutandis* to dealings between brokers and consumers".