



# Recommendation of the Council concerning Consumer Protection in the Field of Consumer Credit

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## Background Information

The Recommendation concerning Consumer Protection in the Field of Consumer Credit was adopted by the OECD Council on 11 April 1977. The Recommendation calls for legislation, regulations and actions to protect and inform consumers in connection with credit transactions. Recognising that in the majority of Member countries consumers are not sufficiently informed about the terms and conditions of the loan contracts which they sign and that, in certain cases, they are deceived by misleading or incomplete advertising or presentation of credit terms, the Recommendation aims to protect and inform consumers in connection with credit transactions. The Recommendation also provides for a list of measures for the respect of basic human rights and protection of consumer's privacy, protection of consumer's economic interests, as well as means of redress and sanctions in case of disputes. The Recommendation was abrogated on 2 July 2019.

**THE COUNCIL,**

**HAVING REGARD** to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**HAVING REGARD** to the Resolution of the Council of 12 November 1969 Establishing a Committee on Consumer Policy and the Resolution of the Council of 18 July 1972 concerning the Continuation of the Committee on Consumer Policy [C(69)143, C(72)132(Final)];

**HAVING REGARD** to the Report by the Committee on Consumer Policy concerning Consumer Protection in the Field of Consumer Credit [CCP(76)4(2nd Revision)];

**CONSIDERING** the growing importance of consumer credit for the financing of purchases of goods and services by consumers and the recent development of types of loans which, in certain cases, are outside the scope of regulations promulgated with a view to protecting consumers in connection with instalment credits;

**CONSIDERING** that in the majority of Member countries consumers are not sufficiently informed about the terms and conditions of the loan contracts which they sign and that, in certain cases, they are deceived by misleading or incomplete advertising or presentation of credit terms;

**RECOGNISING** that it is necessary to improve consumer information in connection with credit advertisements and loan contracts and to strengthen the protection of consumers' economic interests by prohibiting or regulating in particular the use of certain practices or clauses considered to be abusive or the recourse to the bill of exchange and the promissory note;

**RECOGNISING** further that it is necessary to ensure better respect of fundamental rights as well as the protection of individual privacy of consumers in the framework of consumer credit transactions and to improve the means of redress available to consumers by providing inexpensive and efficient procedures for solving disputes concerning credit transactions;

**RECOMMENDS** that Member countries should consider adopting legislation or promulgating regulations which would establish the following measures:

**I. Consumer Information**

a) Make it compulsory in all specific advertisements, i.e. those which give details of the consumer credit transaction offered,

- i) If one or two or two elements of the credit cost<sup>1</sup> are mentioned, to indicate the effective annual percentage rate of charge for credit<sup>2</sup>, in addition to the cash price in the case of instalment sales, or in addition to the total amount of credit;
- ii) If more than two elements of the credit cost are mentioned, to specify the following:
  1. Cash price (in the case of instalment sales);
  2. Real cost of credit and/or effective annual percentage rate of charge for credit;
  3. Terms of repayment;
  4. Where appropriate, information on the maximum amount of credit, any restrictions as to the category of persons to whom the offer applies and any security that may be required.

b) Make it compulsory, in any consumer credit contract for the acquisition of goods or services, to include the following specifications:

1. Names and addresses of all the parties involved, date of signature, signatures of debtor and creditor, address and, where applicable, licence number of creditor or intermediaries;
2. Existence of a link between the seller and the creditor, where applicable;
3. Description of the goods and services;

4. Cash price and differences in the terms offered to cash customers and credit customers;
  5. Real cost of credit;
  6. Effective annual percentage rate of charge for credit and details of any legal possibility of variation in the interest rate;
  7. Details of repayment terms (frequency, number and amount of repayments);
  8. Statement of the consumer's rights as regards terminating the contract or effecting early repayment without penalty, if the law provides for it; statement of any obligation upon the consumer to provide security and of any possible clause stipulating the seller's or the credit institution's right to repossess;
  9. Clear indication of the cooling-off period, where applicable.
- c) Make it compulsory, in any consumer credit contract not linked to the purchase of specific goods or services, to insert the following elements of information appropriate to the particular case in question:
- i) In the case of credit cards:
    1. Name and address of each party;
    2. Means of identification of the card (e.g. the serial number);
    3. Maximum credit limit, if any;
    4. Annual rate of interest and any other charges for credit; details of any legal possibility of variation in the rate;
    5. Effective annual percentage rate of charge for credit, with an example if necessary;
    6. Terms of repayment;
    7. Limitation of the financial responsibility of the consumer for unauthorised use of a credit card if lost or stolen;
    8. Clear indication of the cooling-off period, where applicable, when the credit card is obtained.
  - ii) In the case of a running account with a store:
    1. Name and address of each party;
    2. Maximum credit limit, if any;
    3. Annual rate of interest and any other charges for credit, details of any legal possibility of variation in the rate;
    4. Effective annual percentage rate of charge for credit, with an example if necessary;
    5. Terms of repayment;
    6. Clear indication of the cooling-off period, where applicable, when the account is opened.
  - iii) In the case of personal bank loans:
    1. Name and address of each party;
    2. Amount of credit;
    3. Annual rate of interest and any other charges for credit, details of any legal possibility of variation in the rate;
    4. Real cost of credit;
    5. Effective annual percentage rate of charge for credit;
    6. Particulars of any security required;
    7. Terms of repayment;
    8. Clear indication of the cooling-off period, where applicable, when the personal loan is granted.

- iv) In the case of bank overdraft facilities:
  1. Name and address of each party;
  2. Maximum credit limit, if any;
  3. Annual rate of interest and any other charges for credit; details of any legal possibility of variation in the rate;
  4. Effective annual percentage rate of charge for credit, with an example if necessary;
  5. Particulars of any security required;
  6. Terms of repayment;
  7. Clear indication of the cooling-off period, where applicable, when the account is opened.

## **II. Respect of Basic Human Rights and Protection of the Consumer's Privacy**

- a) Prohibit any discrimination on grounds of sex, marital status, nationality, religion, race or colour when such practices are found to exist in consumer credit transactions;
- b) Recognise the consumer's right to know what information has been collected on him by the credit reporting agencies, to challenge it and to have it corrected if erroneous;
- c) Arrange for some supervision of the credit reporting agencies in order to ensure that the information they hold and disclose is used exclusively for the purpose for which it was collected. In Member countries which provide for administrative supervision of consumer credit transactions, the reporting agencies should be made subject to prior authorisation, which could be withdrawn in the event of abuse, or to supervision by an appropriate government agency.

## **III. Protection of the Consumer's Economic Interests**

- a) Prohibit or regulate door-to-door canvassing of loans unconnected with the supply of goods or services;
- b) Provide for a cooling-off period in respect of all unsolicited credit sales above a reasonable minimum value made off shop premises;
- c) Prohibit during the cooling-off period the seller or any party with a commercial or financial interest in the transaction from receiving or retaining funds from the purchaser in any form whatsoever or provide for a simple and inexpensive procedure whereby the consumer may recover the sums already paid;
- d) Prohibit or make null and void the following clauses in consumer credit contracts:
  - i) Clauses which require the borrower to give security of manifestly greater value than the amount of his obligations under the credit contract;
  - ii) Clauses which enable the creditor in cases where the consumer falls behind in his payments to charge penalty rates of interest higher than those which would violate the applicable laws on usury;
  - iii) Clauses which make the consumer in default of payment liable for excessive debt collection charges;
  - iv) Clauses imposing the obligation on the consumer, in the event of early repayment, to pay the full amount of charges for the entire period of repayment;
  - v) Clauses providing for confessions of judgment<sup>3</sup>;
  - vi) Clauses which grant jurisdiction to courts in areas distant from the consumer's place of residence;
- e) Establish a limited joint liability of creditor and seller which would allow the consumer to raise all defences against the creditor which he could raise against the seller when the creditor and the seller

have existing arrangements or understandings, or make all credit sales subject to a twofold proviso whereby the borrower's obligations only take effect from the date when the seller has fulfilled his obligation to deliver and the sale is not consummated until the credit has been obtained;

f) Where there is evidence of unfair practices, prohibit or regulate the use of the bill of exchange and promissory note in consumer credit transactions or allow the consumer the right to invoke the joint liability of affiliated creditor and supplier if the bill of exchange or promissory note is used in a consumer credit transaction;

g) Prohibit creditors and debt collection agencies from claiming payment of debts from persons other than the consumer, unless there is a legal possibility to do so.

#### **IV. Means of Redress and Sanctions**

a) Provide inexpensive and effective means of redress for disputes concerning consumer credit;

b) Establish civil, criminal or administrative sanctions for discrimination on grounds of sex, marital status, religion, nationality, race or colour which may be found to exist in the context of consumer credit transactions, and for infringements of the regulations concerning the compulsory specifications to be inserted in advertising matter or contracts, the cooling-off period and the prohibition of abusive clauses;

c) Give consumers the possibility of bringing a civil action for damages in order to obtain compensation for the loss sustained as the result of a credit institution's failure to fulfil its legal commitments;

d) Extend to consumer associations, if national procedures allow such an extension, the right to take action in the courts in their own name when the collective interests of consumers are harmed;

e) Consider, where there is no provision for the injunction procedure under civil law, whether it would be possible to introduce this procedure into their legislation and enable consumers or consumer associations to have recourse to it.

#### **V. Scope of Regulations**

Consider whether the regulations now in force to protect and inform consumers in connection with credit transactions should not, if necessary, be broadened and adjusted in such a way as to be applicable to all the modern forms of consumer credit.

<sup>1</sup> With regard to advertising concerning the various forms of credit on running account, the consumer should be given some idea of the real cost of a transaction by means of an example with figures.

<sup>2</sup> The real cost of credit represents the total amount of all payments due by the debtor: interest, enquiry expenses, arrangement fee, management, administration and collection expenses, premium for required credit insurance and any other expenses normally required in connection with the making of a credit contract, with the exception of expenses incurred in the event of non-fulfilment of contract.

<sup>3</sup> Clauses whereby a consumer acknowledges that a claim is or is about to become due to a creditor and consents that judicial decision may be rendered for the unpaid amount which is due.

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