



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.2.2008
COM(2008) 117 final

2002/0222 (COD)

COMMISSION OPINION

pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty

on the

European Parliament's amendments to the Council's common position regarding the proposal for a Directive of the European Parliament and of the Council on credit agreements for consumers amending the proposal of the Commission pursuant to Article 250 (2) of the EC Treaty

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250 (2) of the EC Treaty

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1. BACKGROUND

Date of forwarding of the proposal to the EP and Council (document COM(2002) 443 final – 2002/0222 COD)	12 September 2002
Date of the opinion of the European Parliament (First Reading)	20 April 2004
Date of forwarding of the first amended proposal	29 October 2004
Date of forwarding of the second amended proposal	7 October 2005
Date of the political agreement in Council	21 May 2007
Date of adoption of the Common Position	14 September 2007 (qualified majority)
Date of the opinion of the Economic and Social Committee	17 July 2003
Date of the opinion of the European Parliament (Second Reading)	16 January 2008

2. PURPOSE OF THE COMMISSION'S PROPOSAL

The proposal for a new Directive on consumer credit has a double objective: ensuring a high level of consumer protection and establishing the conditions for a genuine internal market in consumer credit.

The Directive of 1987 was based on minimum harmonisation. Almost all Member States have gone beyond these standards to a different extent, which has hindered the creation of a single market. The full harmonisation in particular of the five essential modules of the Directive (pre-contractual and contractual information, annual percentage rate of charge (APR), right of withdrawal and right of early repayment) aims to contribute to the creation of a single market in consumer credit, because creditors will not have to adapt their products to different national legislations in the Member States.

The current Directive on consumer credit (87/102/EC) was adopted in 1987 and provides only for basic consumer protection measures. Recent market evolutions called for adaptation of these rules.

3. COMMISSION'S OPINION ON THE AMENDMENTS PROPOSED BY PARLIAMENT

The EP voted in second reading a consolidated text which contains a number of amendments to the text of the Common Position. The text is the result of negotiations between the Council, the EP and the Commission. The most important and at the same time most controversial amendment concerns the compensation in cases of early repayment. Regarding the determination of the compensation the EP deleted the reference to the reference interest rate of the European Central Bank and added a possibility for Member States to introduce a provision whereby creditors may exceptionally claim a higher compensation than the caps if their loss is higher than the caps and consumers may ask for a reduction of the compensation if they can prove the opposite.

The Commission accepts this amendment and all other amendments voted by the EP. The outcome of the second reading in the EP was overall satisfactory: Pre-contractual and contractual information and the annual percentage rate of charge are fully harmonised. The right of withdrawal is fully harmonised with a small flexibility for Member States to reduce under very restricted conditions the period for exercising the right of withdrawal of 14 days to 7 days. The Commission would have preferred more harmonisation in this area as well as on the compensation in cases of early repayment. However, it can accept the flexibilities granted to Member States as part of an overall package agreement which will establish a high standard of consumer protection while fixing the conditions for a genuine internal market in consumer credit.

4. CONCLUSION

Pursuant to Article 250 (2) of the EC Treaty, the Commission amends its proposal as set out above.