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REPORT

drawn up on behalf of the Committee on Legal Affairs and  
Citizens' Rights

on the proposal from the Commission to the Council  
(COM(88) 201 - C 2-71/88) for a directive amending  
Directive 87/102/EEC for the approximation of the laws,  
regulations and administrative provisions of the Member  
States concerning consumer credit.

Rapporteur: Mr Geoffrey W. HOON

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A Series: Reports - B series: Motions for Resolutions, Oral Questions, Written Declarations, etc. - C Series: Documents received from other Institutions (e.g. Consultations)

**\*** = Consultation procedure requiring a single reading

**\*\*II** = Cooperation procedure (second reading) which requires the votes of the majority of the Members of Parliament

**\*\*I** = Cooperation procedure (first reading)

**\*\*\*** = Parliamentary assent which requires the votes of the majority of the current Members of Parliament

By letter of 7 June 1988, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 100a of the EEC Treaty, on the proposal from the Commission of the European Communities to the Council for a directive amending Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit.

On 16 June 1988, the President of the European Parliament referred this proposal to the Committee on Legal Affairs and Citizens' Rights as the committee responsible and to the Committee on the Environment, Public Health and Consumer Protection for an opinion.

At its meeting of 12 and 13 July 1988, the Committee on Legal Affairs and Citizens' Rights appointed Mr Geoffrey Hoon rapporteur.

The committee considered the Commission's proposal at its meeting of 18 and 19 October 1988, and examined the draft report at its meetings of 30 November and 1 December 1988, 1 and 2 February 1989 and 2 and 3 March 1989.

At the last meeting, the committee unanimously decided to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The committee then unanimously adopted the motion for a resolution as a whole.

The following took part in the vote: Lady ELLES, Chairman; Mr MEDINA ORTEGA, Vice-Chairman; Mr HOON, rapporteur; Mr BARZANTI, Mrs EWING (deputizing for Mr de la Malene), Mrs FONTAINE, Mr GARCIA AMIGO, Mr GAZIS, Mr JANSSEN VAN RAAY; Mr KOLOKOTRONIS, Mr LAFUENTE LOPEZ, Mr MALANGRE, Mr MARQUES MENDES, Mrs NEUGEBAUER, Mr PALMIERI, Mr ROTHLEY, Mr TURNER, Mr TZOUNIS (deputizing for Mr Saridakis), Mr VETTER, Mr WIJSENBEEK and Mr ZAGARI.

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

The report was tabled on 3 March 1989.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Legal Affairs and Citizens' Rights hereby submits to the European Parliament the following amendments to the Commission proposal and draft legislative resolution together with explanatory statement :

Commission proposal for a Council Directive amending Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit

Text proposed by the Commission  
of the European Communities

Amendments tabled by the  
Committee on Legal Affairs and  
Citizens' Rights

Preamble, 1st and 2nd recital - unchanged

Amendment No. 1

Whereas it is desirable, as a first step towards the establishing of such a method, that an appropriate mathematical formula be laid down for the purpose of calculating the annual percentage rate of charge; whereas it is useful to adopt common rules concerning such a formula, although the cost items which will have to be taken into account in calculating the annual percentage rate of charge remain to be determined,

Delete this recital

Article 1(1) - unchanged

Article 1(2)

2. The following Article is inserted:

"Article 1a

1. For the purpose of stating the annual percentage rate of charge for credit, the rate which equalises the present values of the prospective or actual commitments of the lender and borrower shall be calculated in accordance with the method set out in Annex II.

Article 1(2)

2. The following Article is inserted :

"Article 1a

1. Unchanged.

Amendment No. 2

1 bis In calculating the total cost of credit to the consumer every item of cost which the consumer must pay as a condition of obtaining the credit shall be brought into account. The following items shall not form part of the total cost of the credit:

- charges payable by the consumer for failing to meet his obligation under the credit agreement;
- charges payable both by cash buyers and by credit buyers of goods for services;
- charges for the transmission of money;
- motor vehicle insurance premiums payable under already existing insurance contracts; premiums for optional insurance and certain types of life assurance; premiums payable under other contracts of insurance where the consumer is at liberty to choose the insurer;
- charges for or related to services or benefits which are incidental to the credit agreement and are payable in relation to an obligation existing before the consumer made the credit agreement.

Text proposed by the Commission  
of the European Communities

Amendments tabled by the  
Committee on Legal Affairs  
and Citizens' Rights

Amendment No. 3

Add the following paragraph 1(ter)

In addition to the annual percentage  
rate of charge, any additional costs  
payable shall be listed, without  
exception.

Amendment No. 4

Add the following paragraph  
1(c):

In addition to that information, the  
amount of any periodic charges shall  
be stated.

Text proposed by the Commission  
of the European Communities

2. The annual percentage rate of charge shall be calculated at the time of concluding an agreement for credit.

Amendments tabled by the  
Committee on Legal Affairs  
and Citizens' Rights

Amendment No. 5

Paragraph 2 to read as follows :

2. The annual percentage rate of charge shall be calculated at the time of concluding an agreement for credit.

If, during the period of the loan, it is possible to change the terms of credit (variable loans), the following additional information shall be provided :

- a declaration that the rate stated is the initial annual percentage rate of charge;
- a statement declaring when factors determining prices can be changed;
- a statement as to the period over which differences in out payments (processing fees and contributions to administrative costs, discounts and premium, brokers' commissions and other charges involved in loan procurement) are entered on account at the (initial) annual percentage rate of charge.

Furthermore, in the case of variable loans the following assumptions shall apply:

- (i) The factors determining prices valid at the time the loan was offered or advertised do not change.
- (ii) Any costs arising from incomplete payment of the amount of the loan or a surcharge on the loan are calculated from the period when, assuming the credit proceeds normally, the borrower effectively comes into possession.

Text proposed by the Commission  
of the European Communities

Amendments tabled by the  
Committee on Legal Affairs  
and Citizens' Rights

Amendment No. 6

Add the following paragraph 2(bis)

If the granting of credit is made  
conditional on the borrower's  
insurance cover, savings, own  
contributions, membership  
requirements etc., that fact should  
be stated.

Amendment No. 7

Add a new paragraph 2 bis as  
follows:

2 bis Where the money amount of the  
relevant item of cost has been  
quantified, it is that money amount  
which shall be brought into account  
for the purpose of making the  
calculation; where the money amount  
of the relevant item is not known it  
shall be estimated by the lender as  
realistically as possible and the  
amount thus estimated shall be  
brought into account for the purpose  
of making the calculation.

Article 1a, paragraphs 3 and 4 - Unchanged

Articles 1(3) and 1(4) and Articles 2 and 3 - Unchanged



DRAFT LEGISLATIVE RESOLUTION  
(COOPERATION PROCEDURE : first reading)

embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a Directive amending Directive 87/102/EEC for 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 (COM(88)201-SYN 132)<sup>1</sup>,
  - having been consulted by the Council pursuant to Article 100a of the EEC Treaty (Doc. C2-71/88),
  - considering the proposed legal basis to be appropriate,
  - having regard to the report of the Committee on Legal Affairs and Citizens' Rights and the opinion of the Committee on the Environment, Consumer Protection and Public Health (Doc. A 2-418/88),
1. Approves the Commission's proposal subject to Parliament's amendments and in accordance with the vote thereon;
  2. Calls on the Commission to amend its proposal accordingly, pursuant to Article 149(3) of the EEC Treaty;
  3. Calls on the Council to incorporate Parliament's amendments in the common position that it adopts in accordance with Article 149(2(a)) of the EEC Treaty;
  4. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  5. Instructs its President to forward this opinion to the Council and Commission.

<sup>1</sup> OJ C 155, 14.6.1988, p. 10.

## EXPLANATORY STATEMENT

This modest, if complex, proposal for a directive seeks to amend Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (OJ 1987 L42/48).

The original draft of the main directive on consumer credit (Directive 87/102/EEC) was produced in 1974, and published in the Official Journal in 1979 (OJ No. C.80, 27.3.1979, p.4). In giving its opinion the European Parliament insisted that a Community-wide method or methods of calculating the annual percentage rate of charge (hereafter APR) should be established. The Commission, having given written undertakings to Parliament concerning the consumer credit proposal, inserted appropriate provisions when it presented its amended proposal in 1984 (OJ No. C 183, 10.7.1984, p.4).

In the meantime however Member States had adopted different methods of calculating the APR. In 1981 the Federal Republic of Germany, insisting that the original proposal contained no reference to APR, adopted detailed legislation concerning the method of calculation of the APR. Their method required each year to be treated as consisting of 360 days with calculations made accordingly. In 1985 France adopted decree No. 85-944 imposing the use of the normal or proportional method, based on a monthly actuarial rate multiplied by twelve.

The Netherlands and the United Kingdom considered the various methods of calculation available. They ultimately adopted the "present value" method recommended by Professor Kirschen, formerly Professor of Applied Economics at the Université Libre de Bruxelles and an advisor on consumer credit to the European Commission.

In order to attempt to resolve these differences on methods of calculation, the Commission set up a working party which eventually established that a majority of the Member States (Belgium, Denmark, Greece, Ireland, the Netherlands, Spain and the United Kingdom) were using or were about to use the present value method. In addition, less enthusiastically, Italy and Luxembourg indicated that they were prepared to do so. Germany and France remained attached to their own respective methods, with Portugal still to decide one way or the other.

The working party also considered a further aspect of calculating the charge to the consumer of borrowing; the items of cost to be included in the final total. Many items of cost were identified (interest, the charges for opening the file, for enquiring into the applicant's creditworthiness and for surveying or actually valuing property which may have to be charged by way of security, various insurance premiums, certain maintenance costs and so on). There was no general agreement as to which items of cost must always be brought into the calculation. This remains the case, and is clearly a major stumbling block on the way to producing a Community-wide, consistent method of calculating and publicising rates of interest.

It is clearly of considerable value to consumers that there should be a uniform method of calculating the annual percentage rate of charge for credit. It would enable consumers to compare different rates of interest in different