

16 February 2022

PROPOSAL FOR DIRECTIVE ON CONSUMER CREDITS

PROPOSED DRAFT AMENDMENTS BY SELDIA

Seldia was founded in 1968 to be the voice of the European Direct Selling sector. We represent 25 national associations, 15 companies, 13 service providers, as well as the voices of the independent entrepreneurs engaged in a direct selling activity. Direct selling is a method of retail and marketing of goods and services, directly to consumers, in their homes at any other location, away from permanent retail premises.

RATIONALE

a) Article 2 | Scope of the Directive and interest-free credit

The Commission proposes to extend the scope of EU consumer credit rules to cover all interest-free credit. However, the reason for this extension is not clear.

The current Consumer Credit Directive excluded from its scope interest-free credit agreements with no charges or with only insignificant ones. The impact assessment on the proposal only identified as a risk some limited cases of interest free loans offered to consumers that are accompanied by high fees for late or missed payments. However, interest-free credit agreement with no charges or with only insignificant ones per se pose no significant risk for consumers.

The proposed provision would therefore unnecessarily impose disproportionate obligations to many creditors offering this option. As a result, these creditors may decide to no longer offer this option to consumers. Consumers can, however, greatly benefit from interest-free credit agreements, since they can space out payments for products and services.

Therefore, interest free and credit agreements with no charges should continue to be excluded from the scope of the Directive.

b) Article 17 | Ban of unsolicited sales of credit

Article 17 of the proposal requires Member States to prohibit any sale of credit to consumers, without their prior request and explicit agreement.

The Impact Assessment does not provide sufficient data to support this provision. The Impact Assessment refers to concerns raised by Slovakia and Slovenia regarding credit cards sent to consumers who have not requested them or whose limit is increased without an explicit request. In other words, the data providing the basis for this provision are limited only to a few countries and concern certain practices linked to the unsolicited offer of credit cards to consumers.

Moreover, while the Impact Assessment refers to the [results of the public consultation on the New Consumer Agenda](#), it fails to indicate that only 27% of respondents agree with a ban of unsolicited credit sales.

The Impact Assessment argues that some Member States have imposed a ban or heavily regulated unsolicited credit offers (e.g. Belgium, France, Ireland). These countries have regulated only certain practices to prevent irresponsible consumer borrowing. However, they have not opted for an outright ban of unsolicited credit

sales.¹ A ban of unsolicited credit sales as proposed by the Commission is therefore neither justified nor proportionate.

While harmful practices, also listed by the draft Recital 44 (non-requested pre-approved credit cards sent to consumers, unilateral increase of overdraft or credit card limit, etc.) should be prohibited, an outright ban as proposed by the Commission would mean that credit agreements concluded at point of sale to finance the purchase of a good or a service would no longer be offered to consumers. Consumers should continue to benefit from the option to contract a credit for products and services if they so wish.

Therefore, we call for a deletion of the proposed Article 17. Alternatively, we propose to limit the ban to unsolicited credits without the consumer's prior request and explicit agreement while continue allowing credit agreements concluded at point of sale to finance the purchase of a good or service.

SUGGESTED AMENDMENTS

a) Article 2 | Scope of the Directive and interest-free credit

Option 1

Commission Proposal	Suggested amendment to Commission Proposal
	NEW Article 2.2 The Directive shall not apply to the following: (ga) credit agreements where the credit is granted free of interest and without any other charges;

Justification: The exemption for credits granted free of interest and without any other charges provided for in the current Consumer Credit Directive has been deleted without any valid justification. The consumer does not bear any significant risk with credits free of interests/charges. It would be therefore unreasonable and disproportionate to subject such credits to cumbersome consumer credit requirements.

Option 2

Commission Proposal	Suggested amendment to Commission Proposal
Article 2.2 (g) The Directive shall not apply to the following: (g) Credit agreements which relate to the deferred payment, free of charge, of an existing debt;	Article 2.2 (g) The Directive shall not apply to the following: (g) Credit agreements which relate to the deferred payment, free of interests and without any other charges, of a debt;

Justification: Idem.

¹ See the [FSUG opinion](#) and the [BEUC position](#) on the review of the CCD. The Irish Consumer Protection Code prohibits the offer of unsolicited pre-approved credit to consumers; allows credit providers to increase a consumer's credit limit only with the agreement of the consumer. In France, targeted credit offers sent by post or e-mail must comply with standard requirements: the interest rate and the total cost of credit must be clearly stipulated. In Belgium, unsolicited marketing is strictly regulated – it is forbidden, among others, to set up credit sales desks in public places such as railway stations, shopping centres.

a) Article 17 | Ban of unsolicited sales of credit

Option 1

Commission Proposal	Suggested amendment to Commission Proposal
Article 17 Member States shall prohibit any sale of credit to consumers, without their prior request and explicit agreement.	Deleted

Justification: The Impact Assessment on the proposal does not provide enough data to back up this provision. The Impact Assessment only refers to concerns raised by a few countries with regard to specific harmful practices. While harmful practices listed by the draft Recital 44 should be prohibited, an outright ban would be a disproportionate measure.

Option 2

Commission Proposal	Suggested amendment to Commission Proposal
Article 17 Member States shall prohibit any sale of credit to consumers, without their prior request and explicit agreement.	Article 17 Member States shall prohibit any sale of credit to consumers, without their prior request and explicit agreement. This provision shall not apply to credit agreements concluded at point of sale to finance the purchase of a good or a service.

Justification: While harmful practices listed by the draft Recital 44 should be prohibited, an outright ban would be a disproportionate measure. Consumers should continue to benefit from the option to contract a credit for products and services if they wish so.