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Protecting consumers from over-indebtedness from short-term high-cost credits

Short-term high-cost (STHC) credits have become more widespread and easy to take up through various digital options. As a result, a significant number of, particularly young and vulnerable people, have been trapped in unmanageable debt. Today, the consumer credit directive (CCD) which regulates certain obligations of credit intermediaries in relation to consumers does not apply to credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75.000. As a result, the CCD does not apply to many STHC credits, and thus falls short in terms of protecting consumers from over-indebtedness. The rising financial vulnerabilities for consumers as a result of the COVID-19 crisis has only accentuated the need for strengthening consumer protection online and for providing consumers with credible lending terms when obtaining credit online. This is absolutely critical if we are to ensure that online credits contributes to the financial recovery of consumers as well as to restore previous levels of consumption.

Several member states have introduced national legislation in order to secure consumer protection especially on payday loans. The development leads to a fragmented Single Market to the detriment of both businesses and consumers because of different legislation, requirements and protection level across member states. Further, information requirements or consumer information and education will not in itself be able to solve issues related to over-indebtedness from STHC credits. Targeted legislative action is needed to secure a level playing field across borders in the EU, to secure a well-functioning market for credits and to protect European consumers from credit agreements they cannot afford.

Proposal
The CCD is based on earlier generation technology, but new business models challenge the traditional concept of creditors and consumers. It is important to have an ongoing focus on ensuring effective consumer protection as well as reaping the potential benefits of the regulation in the EU. Therefore, the Commission should examine whether targeted legislative action could be introduced, incl. e.g.:

- Extending the scope of the Directive to credits below EUR 200 and for other types of credit that are currently outside of its scope;
- Determining “insignificant charges” with regards to short term credits to have them not excluded from the scope by article 2.2.f, for instance by relating to the APR cap and/or total cost cap;
- Setting an effective limit on how much a consumer can be asked to pay for a loan, including default charges, and ensuring that the total cost of the credit cannot exceed the total amount of the credit e.g. by imposing a ceiling on the total cost of 100 percent with the right for Member States to set lower ceilings;
- Setting a clear ceiling on what should be regarded as a fair credit agreement e.g. by banning all consumer credits with an annual percentage rate (APR) of more than 35 percent that are not related to a mortgage credit with the right for Member States to set lower APR caps;
- Preventing the massive advertising of expensive consumer credits that we face primarily online, on TV and in public e.g. by limiting the possibility of loan providers to advertise consumer credits with APR of 25 percent or more;
- Updating and harmonizing principles and rules across the EU for assessing creditworthiness e.g. by setting explicit guidelines for what “sufficient information” is, lying down more specific criteria and obliging all creditors to assess the creditworthiness of the consumer adequately;
- Adding examples to the guidelines on the APR to make sure what charges can or cannot be included in the APR in case of short term small credit;
- Looking for ways to avoid short-term small credits to be reimbursed by successively growing credits.

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