

European Commission consultation

## STUDY ON INTEREST RATE RESTRICTIONS IN THE EU

BEUC response

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## Summary

BEUC welcomes the opportunity to comment on the European Commission study on interest rate restrictions in the EU. We agree with most of the conclusions drawn from the study's hypotheses.

BEUC approaches the IRR topic from the point of view of fairness, responsible lending and levels of consumer indebtedness. Our main responses to consultation questions are as follows:

- IRR policies are justified taking into account different national experiences and the principle of good morals and fairness.
- Short-term and expensive credit segments most often specifically target low-income consumers. In order to fight against over-indebtedness and prevent financial exclusion of vulnerable and high-risk consumers, such consumers should be offered affordable loans and other services adapted to their needs. Best practices must be promoted on an EU-wide scale.
- Responsible lending has an important role to play in preventing consumer over-indebtedness: all lenders and intermediaries must act responsibly, irrespective of the type and amount of the credit.
- The possible emergence of illegal market cannot be used as an argument against IRR: illegal lending must be punished in accordance with relevant legislation in countries where such a problem exists.
- IRR policies can bring positive effects only if properly designed. In this respect, all fees and charges linked to the loan, which must be inevitably paid by the borrower, should be included in the APRC (except notary fees). As regards optional fees and charges, the consumer must be clearly informed of these options in advance.
- Evidence shows that there is no direct link between IRR and levels of competition in the consumer credit industry.
- It does not appear that IRR lead to a convergence of all consumer credit interest rates at the level of the interest rate cap.
- Ban of IRR is socially undesirable as it would strongly jeopardize consumer protection laws currently in place in many Member States.
- IRR is unlikely to be a barrier to consumer credit market integration. On the contrary, a certain level of harmonisation of IRR is likely to contribute to market integration. Therefore, action at EU level should be taken to harmonise IRR. A minimum harmonisation approach is preferable.

BEUC welcomes the opportunity to comment on the European Commission study on interest rate restrictions in the EU. The issue of interest rate restrictions (IRR) is of utmost importance for consumers as existence or absence of IRR has a direct impact on the costs of some of their credits and consequently on their daily life.

BEUC's position on credit is as follows: *"All EU consumers, who have sufficient resources to reimburse a loan, should have access to it. Loans should be covered by a high level of consumer protection and offered by responsible lenders and intermediaries"*. The IRR issue is strongly related to the responsible lending debate and consumer indebtedness issues. We therefore approach the topic from the point of view of fairness, responsible lending and levels of consumer indebtedness.

Overall, the Commission study provides a good overview of the situation across Europe with regard to various forms of IRR. The study considers twelve hypotheses of relevant issues regarding interest rate restrictions. The following three hypotheses were found plausible by the study:

- Firstly, it is likely that the existence of IRR excludes some customer groups from credit access.
- Secondly, there might be a reduced offer of credit types, as some credit types with very high interest rates are not offered in the presence of IRR.
- Thirdly, one needs to keep in mind that suppliers can (to some extent) structure their credit product in a way so that the existing interest rate regulation does not apply.

BEUC agrees with most of the conclusions drawn from the study's hypotheses.

## General assessment

**Question 1:** *Do you think that the inventory of IRR presented in the study accurately reflects the reality in EU27? If not, please explain why, and what information you think is missing or incorrect.*

### **Greece**

On page 352 of the Commission study on interest rate restrictions the Hellenic Ombudsman for Banking-Investment Services is presented as a consumer organisation. This does not correspond with reality: the Ombudsman is a mediation body funded by the Hellenic Bank Association.<sup>1</sup>

### **Italy**

In Italy there are 24 ceilings of IRR, and not 23 as provided in the Commission report.<sup>2</sup>

<sup>1</sup> For more information see: <http://www.bank-invest-omb.gr/en/thesmos.html>

<sup>2</sup> See table containing IRR for the period of 1<sup>st</sup> January-31 March 2011 in Annex 1.

**Question 2: Do you think IRR policies are justified? Why? Under which conditions?**

Due to various development paths within EU Member States, various types of IRR have emerged. One of the study's findings is that IRR in its various forms exist in 14 Member States. In some other Member States the issue is being debated (e.g. DK, the UK). These facts could be a significant indicator justifying IRR policies.

The study states that IRR are most likely to affect short-term and high-risk credit segments, such as revolving credit, payday loans and sms-loans, which most often specifically target low-income consumers who are not considered as good clients for main street banks except maybe when they pay high overdraft fees in some countries. Thus, the importance of IRR differs between types of loans. Evidence from the UK market for instance shows that the likelihood of holding non-mainstream loans (pawnbrokers, home-collected credit and payday loans) is strongly inversely correlated with household income.<sup>3</sup> These types of credit are relatively easily granted. For example, sms-loan can be obtained in certain countries by simply sending a sms (even using someone else's cell phone).

Two methods are used by lenders to reduce credit risk. First, conduct thorough creditworthiness assessment: the credit is not granted if the present and/or future ability of the borrower to meet his financial obligations is at risk. Second, transfer the credit risk to the borrower by charging high interest rates. The latter method prevails in the markets for short-term and high-risk loans. While responsible lending is primarily being considered with respect to traditional instalment credit (secured and unsecured loans), high-risk credit segments have not been addressed in all Member States. Nevertheless, given the fact that short-term and high-risk loans mainly target low-income consumers and youngsters, possible damage caused by such loans should not be underestimated (debt-spiral or over-indebtedness). Some striking examples of irresponsible lending exist: a French consumer took 27 revolving credits amounting to a total of 207 000 Euros from 14 different credit providers. She contracted new loans to meet her loan repayment obligations without any creditworthiness assessment from lenders. Another consumer took many loans amounting to 390 000 Euros within five years. Each month he had to take a new loan to make his monthly payments of 8800 Euros.<sup>4</sup>

As suggested by the Commission study, consumers do not always act rationally when taking credit decisions. Behavioural economics have recently directed EU and national policy-makers towards a new approach to consumer policy. Indeed, because of behavioural biases consumers sometimes need to be protected from themselves to avoid irrational decisions. For instance, the rationality of contracting many small-amount and expensive loans in order to satisfy an immediate need or desire while the ability to repay the loans is limited is highly questionable. As the costs of over-indebtedness are ultimately borne by the society as a whole, the phenomenon can be considered a market failure. Consumer policies must be designed in such a way so as to avoid or correct possible market failures. It should also be considered that avoiding over-indebtedness by means of appropriate regulation is much less expensive than dealing with over-indebtedness cases, i.e. preventive measures prevail over curative measures. IRR has an important role to

<sup>3</sup> "Over-indebtedness in Britain: Second follow-up report", Department for Business Innovation & Skills, March 2010:  
<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/10-830-over-indebtedness-second-report>

<sup>4</sup> Le Nouvel Observateur No 2416, 24 February 2011.

play in this respect. Unsurprisingly, high-cost credit (sms-loan, payday loan) has mostly developed in countries with no IRR or high interest rate ceiling (e.g. the UK, Sweden, Slovenia, Norway), meaning that loopholes in legislation are immediately exploited by market players. Some Member States (e.g. Slovenia) used the opportunity of transposition of the Consumer Credit Directive to cover small-amount credit too.<sup>5</sup>

The Commission study finds that the primary objective of the IRR policy in some Member States is to comply with the principle of good morals and fairness, i.e. to prevent the intentional exploitation of the weakness of another person at an individual level through extortionate pricing, especially in relation to credit. It is indeed immoral to exploit weakness of low-income consumers (narrow choice) by charging high interest rate.

Instead, in order to fight against over-indebtedness and prevent financial exclusion of vulnerable and high-risk consumers, such consumers should be offered loans adapted to their needs (e.g. micro-credit). Besides that, independent advisory bodies are needed to prevent consumer over-indebtedness. Some useful models exist in different Member States: the funds established in Italy to assist victims and potential victims of exploitative lending, the Irish Money Advice and Budgeting Service, the NVVK (Dutch council of municipal banks) in the Netherlands. In the UK, the Government operates a "Social Fund" which can provide emergency loans. These loans can be extended under certain circumstances and for certain type of expenditure e.g. to cover the cost of a funeral. There are caps in place both in terms of the amount of money lent and the number of times an individual can apply for a loan from the social fund (the Government has just announced a cut to the social fund). Development of such initiatives must form part of public policy actions. These forms of credit must target specific consumer groups and be affordable. Best practices must be promoted on an EU-wide scale.

Our British member Consumer Focus has always argued for regulators, across all markets and sectors, to have the appropriate tools and mechanisms available to them to be able to apply proportionate and targeted remedies where consumer detriment exists. They have found the evidence in relation to the issue of IRR to be inconclusive and have been consistent in calling for more in depth research to be conducted by consumer detriment, and potential remedies, resulting from market features in the high-cost credit sector. Research conducted by Consumer Focus has shown that when low income consumers choose high cost credit products they are often not acting irrationally, but exercising a rational choice within a limited range of options. For example in their payday loans research,<sup>6</sup> consumers had a range of experiences, both positive and negative, with using these loans. According to Consumer Focus, low income consumers should have access to affordable credit products, designed in ways to meet their needs. They have arranged for independent research into the issue of affordable credit provision. This will draw on international comparisons in order to suggest how to improve access to affordable credit for low income consumers.

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<sup>5</sup> The scope of the Consumer Credit Directive is limited to credit ranging from 200 Euros to 75.000 Euros, while leaving the possibility for Member States to expand the scope.

<sup>6</sup> Consumer Focus (2010) Keeping the plates spinning, Perceptions of payday loans in Great Britain

## Impact of interest rate restrictions

**Question 3:** *Do you agree with the conclusions of the analysis of the 12 hypothesis examined in the study?*

**H1:** *IRR reduce credit access, in particular for low-income borrowers. This hypothesis is found to be plausible.*

**H2:** *IRR lead to a decline in the volumes of consumer credit granted. This hypothesis appears unlikely to hold in an economically significant way.*

**H2a:** *Without IRR, more product types exist in the market (this hypothesis appears plausible).*

As mentioned above, all lenders and intermediaries must act responsibly, irrespective of the type and amount of the credit. While H1 may be true, i.e. credit access for some low-income consumers may be reduced as a result of IRR, it should not be taken for granted that existence of easy access to credit always leads to a better outcome for borrowers. Spending more than you earn is not sustainable in the long run. Thus, social utility of some types of credit may be questioned. The Commission study supports this view: "*The majority of stakeholders do not see a need for increasing credit access to low-income borrowers*" (p. 226).

Additionally, fairness of high interest rates and their degree of proportionality vis-à-vis the risk borne by lenders may also be challenged. A study published in France found that high interest (close to legally defined usury rate) charged by lenders (who are usually subsidiaries of large mainstream banks) specializing, inter alia, in revolving credit, exceeds by far the risk associated with lending. The study shows that the market for revolving credit is highly lucrative and does not justify the excessive pricing.<sup>7</sup>

That said, national specificities should not be omitted when assessing the risk of reduced credit access for low-income borrowers. To protect consumers in countries where the introduction of IRR is likely to lead to withdrawal of certain forms of credit products, alternative forms of lower cost credit should be made available to low income consumers in order to compensate for any reduction in credit access (see our response to question 2).

**H3:** *IRR lead to credit from non-bank sources, such as paying bills late. The study results remain inconclusive with regard to H3.*

No comment.

<sup>7</sup> « Pourquoi les prêts renouvelables des établissements de crédit à la consommation sont-ils proches des taux d'usure ? », Université Montpellier II, January 2006 : <http://www.iae.univ-poitiers.fr/affi2006/Coms/017.pdf>

**H4:** *IRR lead to a substantial illegal market in lending. The study states that, there is no convincing comprehensive data to evaluate this hypothesis. Due to this lack of data, the evidence on H4 was evaluated to be inconclusive.*

The problem of illegal lending is not an issue in many countries. Furthermore, as reported in the Commission study, "... the stakeholders report the even higher levels of importance of illegal lending from countries without IRR" (p. 269). For example, in the UK (country without IRR), illegal lending is a real issue. Research by Policis<sup>8</sup> shows that: "The illegal lending sector is used by 3% of low income households, some 0.3 m, rising to 6% in the most deprived communities. It is concentrated in those without access to legitimate credit. Recent growth in illegal lending is ascribed to shrinking supply of high cost credit in deprived communities by 52% of those aware of illegal lending in their community."

This should be seen in connection with the fact that only 3% of UK households use non-orthodox but legal sources of credit which are traditionally defined as high-cost credit e.g. payday loans and doorstep lending. Illegal lending is therefore a real issue in the UK and simply because something is illegal does not mean that it will not happen.

In the UK, consumers do not only borrow to fulfil unnecessary consumption but in many cases to pay for basic living expenses due to high cost of living, low incomes and a less developed welfare state than in other wealthier Member States.

In Italy the phenomenon of usury is widespread, in particular among those people who are unable to obtain credit from legal lenders (banks and financial houses). Abolishing IRR would lead to higher interest rates charged by legal lender. This would be unsustainable in particular from a social point of view.

That said, in no case may the emergence of illegal market be used as an argument against IRR. Illegal lending and black market are by definition prohibited and must be punished in accordance with relevant legislation in countries where such a problem exists. At the same time the risk of an increase in illegal lending needs to be taken into account when designing IRR and assessing their impact.

**H5:** *A direct influence of IRR on the level of over-indebtedness is found to be unlikely.*

**H5a:** *The effect of IRR on growth rate of over-indebtedness is found to be inconclusive.*

BEUC agrees with the above conclusions, Indeed, different scenarios exist. For example, there is evidence suggesting a link between absence of IRR and over-indebtedness: sms-loans are problematic in Sweden (no IRR exist in Sweden): *in 2006, 44% of applications for payment injunctions referred to SMS instant loans to*

<sup>8</sup> Briefing note on the potential impact of price caps on low-income credit users, Policis, February 2011, p.2:  
<http://www.policis.com/pdf/credit/Friends%20Provident%20Briefing%20on%20price%20caps.pdf>

*persons aged between 18 and 25, many of whom (59%) had another debt registered with the Enforcement Authority already.<sup>9</sup>*

On the other side, in France no explicit link seems to exist between IRR and over-indebtedness. The IRR policy in this country has never affected the distribution of revolving credit, which is growing especially at the points of sale. Consumers' creditworthiness is not really assessed; this explains why in each French over-indebtedness case, there are at least 4 revolving credits. As a result, a thorough creditworthiness assessment constitutes the most important element that would prevent consumer over-indebtedness. It should be regularly performed by lenders before granting the credit.

Overall, IRR policies can bring positive effects only if properly designed (see our response to questions 6 and 7 below).

**H6:** *The average consumer - or even more so: low-risk consumer - would be granted cheaper credit in the presence of IRR. The study found inconclusive results with regard to this hypothesis.*

In Italy the presence of recorded quarterly average rates for categories of transactions is very useful especially to sanction traders who exceed the maximum rates for the clothing sector. Thus, IRR are certainly an incentive to keep rates under control.

In the UK, interest rates for unsecured lending have increased for almost all groups of consumers since the start of the financial crisis despite the very low Bank of England base rate. The vast majority of UK consumers also borrow in the mainstream credit market which is likely to remain unaffected by IRR.

**H7:** *IRR lead to increased charges as providers will try to compensate the reduced interest revenues by increased charges (plausible). There are examples from different countries illustrating that providers react to regulation by charging fees for which the regulation does not apply.*

As suggested by the study, providers react to regulation by charging fees for which the regulation does not apply. Thus, all loopholes in the legislation must be removed so as to fix the issue. With regard to home loans, BEUC asks for all fees and charges linked to the loan, which must inevitably be paid by the borrower, to be included in the APRC (except notary fees). As regards optional fees and charges, the consumer must be clearly informed in advance that those fees and charges are really optional. Adopting a similar measure for all types of credit would have a two-fold positive effect: prevent lenders from charging unregulated fees and enable consumers to compare different offers. There should be a list of charges that have to be included generally in the APRC. Except these charges, further charges should not be allowed.

<sup>9</sup> Persson, Annina H., "Over-indebtedness – a Growing Problem", 2007: <http://www.scandinavianlaw.se/pdf/50-30.pdf>



In France for example, insurance cost is not included in the APRC when insurance is not requested by the lender. However, most lenders invite consumers to subscribe to an assurance. A study carried out by the Institut national de la consommation showed that insurance costs can add 6-7 points to the interest rate applying to the revolving credit, bringing the APR close to 30%.<sup>10</sup>

A similar problem was reported by our German and Slovenian members: there is an exorbitant pricing with payment protection insurances (PPI) sold with consumer credit. The insurance costs are not included in the APRC.

In Italy the guidelines of 29 August 2009 on detection of the average rates provide that the following costs must be included in the average rate: commissions, fees of any kind (excluding taxes) incurred by the customer for the provision of credit, costs of investigation and review of the financing, closing or settlement costs, collection charges, possible cost of mediation, compulsory insurance costs, appraisal fees, postage and custody charges, any other charges.

Evidence from the UK shows that the cost of charges for unsecured credit including mainstream unsecured credit like credit cards and unauthorised overdrafts can significantly increase the amount owed by a consumer. Policis research estimates that *"two thirds (67%) of low income credit users, some 6.7m individuals, are subject to behaviour-driven charges on their mainstream credit use. On an annualised basis, 3.6m p.a., or 44% of the 8.2m low income borrowers in the market in a year pay credit related charges for missed payments or over-limit fees. We estimate behaviour driven charges paid by low income credit users on mainstream credit to be £560m p.a. Behavioural charges for missed credit payments or over-limit fees on overdrafts, for those paying charges, average £154 per head p.a."*<sup>11</sup>

***H8:** IRR represent barriers to consumer credit market integration. H8 is inconclusive for two reasons. Firstly, it appears that it is not the mere presence of an interest rate restriction, but rather the variety of IRR (presence and non-presence) that are potentially an impediment to market entry. Secondly, the institutional setting is also diverse across countries along several other dimensions, such that it is hard to assess how important interest rate restrictions are in this environment.*

We agree with the conclusion of H8: IRR is unlikely to be a barrier to consumer credit market integration. On the contrary, a certain level of harmonisation of IRR is likely to contribute to market integration.

***H9:** IRR lead to lower levels of competition in the consumer credit industry. H9 is found to be unlikely to hold, as the level of competition differs (according to several criteria) across countries regardless of the presence of IRR.*

<sup>10</sup> 60 Millions de consommateurs, May 2008–No427, p.18 (Institut national de la consommation).

<sup>11</sup> Briefing note on the potential impact of price caps on low-income credit users, Policis, February 2011, p.3:  
<http://www.policis.com/pdf/credit/Friends%20Provident%20Briefing%20on%20price%20caps.pdf>

BEUC agrees with the conclusion of H9: there is no direct link between IRR and levels of competition in the consumer credit industry. Indeed, lack of competition is also observed in countries without IRR (e.g. the UK): the recent Office of Fair Trading (OFT) review of High Cost Credit found that competition was 'limited' in relation to payday loans and that competition was 'mostly absent' in respect of home credit and pawnbroking.<sup>12</sup>

**H10:** *IRR lead to a convergence of all consumer credit interest rates at the level of the interest rate cap implies that providers use an exogenously given interest rate cap to coordinate their (non-competitive) price setting at a rate just below the cap. Other studies have found some evidence on this issue. The study demonstrates that the results on this hypothesis are inconclusive: Whether or not the phenomenon captured in H10 occurs crucially depends on the market structure and the exact way in which interest rate restrictions are implemented.*

BEUC agrees with the conclusion of H10. Furthermore, according to the Slovenian experience, many non-bank credit providers apply interest rates that are just below the allowed benchmark. As previously these rates were higher, IRR cannot be seen as negative.

In Italy in absence of IRR, many consumers would pay higher credit interest rates. After the introduction of IRR, convergence of consumer credit interest rates at the level of the interest rate cap has not been observed in this country.

Furthermore, as reported in the Commission study "*It does not appear that the introduction or lowering of an interest rate cap in Poland or the Netherlands, respectively, has lead to an increased clustering at the level of interest rate cap*" (p. 323).

**Question 4:** *Do you think that IRR are a barrier to the EU credit market integration?*

See our position on H8.

**Question 5:** *Which would be the impact, at social and consumer level, of a ban of IRR?*

Ban of IRR is socially undesirable as it would strongly jeopardize consumer protection laws currently in place in many Member States. For example, IRR in Slovenia are a consequence of huge damage inflicted on consumers in the past by credit providers. A ban would dramatically decrease the level of consumer protection in this country. As stated in the report, lenders have a tendency to exploit loopholes in legislation. In our view, ban of IRR would exacerbate over-indebtedness. See our position on previous questions.

<sup>12</sup> Office of Fair Trading (2010), Review of high cost credit, p34:  
<http://www.oft.gov.uk/OFTwork/credit/review-high-cost-consumer-credit/>

**Question 6:** *What system/type of IRR, if any, do you find is most appropriate/effective to prevent potential consumer over-indebtedness? Please describe.*

IRR should target the overall cost of credit (APRC) taking into account all cost elements including for ancillary services such as PPI (payment protection insurance), fees charged for brokerage, fee for cash withdrawal in credit card credit, etc. They should also in some way reflect the current market conditions (high/low costs of credit refinancing). For example, despite the fact that the Eonia rate<sup>13</sup> strongly dropped starting from mid-2008, French banks did not lower their overdraft interest rates. At that time, overdraft interest rates were 41 times the Eonia rate, i.e. enormous benefit margins for banks (See in UFC-Que Choisir position on the French usury rates reform in Annex 2).

Furthermore, our Norwegian member the Norwegian Consumer Council suggests that IRR in the form of a cap on benefit margins earned by lenders could also be a possible solution.

The issue of high overall cost of credit warrants further investigation. National specificities should be taken into consideration. Our UK member "Which?" suggests that in order to allay concerns about unintended consequences of IRR, national regulators should undertake a detailed investigation into potential solutions and the impact these would have on the market in their country. This investigation should apply to both non-standard and mainstream lending (like unauthorised overdrafts) as research carried out by Policis shows that there is a significant degree of cross-over between use of both types of lending.

**Question 7:** *What system/type of IRR, if any, do you find has less negative effects in terms of limiting the access to credit? Please describe.*

Generally speaking, IRR policies can bring positive effects only if properly designed, both in terms of access to credit and limiting extortionate pricing (see ongoing reform in France). IRR policy in Italy can be mentioned as an example of inappropriate design of IRR: IRR impact on the market is weak because the maximum rate depends on the average market rate (150% of average APR).

The crucial role played by responsible lending should not be omitted either (see our position above).

Additionally, development of price comparison websites at national and cross-border level would help consumers compare different market offers. Such websites should be independent and free of charges for consumers. Comparison websites would contribute to a more transparent and efficient internal market in the credit area.

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<sup>13</sup> Eonia (Euro Overnight Index Average) is an effective overnight rate computed as a weighted average of all overnight unsecured lending transactions in the interbank market.

## Possible follow-up

**Question 8:** *Do you believe that, based on the findings of the study, there is a need for further action at EU level? If yes, what form such a policy response should take?*

As mentioned above, a certain level of harmonisation of IRR would contribute to consumer credit market integration. If the objective pursued by the Commission is building a single market in consumer credit, action at EU level should be taken to harmonise IRR. It should be kept in mind that IRR play quite a subordinate role in credit market integration. This is why a minimum harmonisation approach is preferable.

Our UK member Which? is of the view that there should not be pan-European harmonisation of IRR due to lack of evidence that consumers are trying to shop cross-border for unsecured credit and the fact that the usage patterns of unsecured credit vary widely across the EU. As mentioned before, in the UK low-income households use unsecured credit to pay in many cases for essential expenses and this needs to be taken into account when assessing the suitability of IRR for the UK.

## ANNEX 1

### IRR in Italy (1<sup>st</sup> January-31 March 2011)

<b>Tassi d'interesse effettivi globali medi e tassi massimi ai fini dell'usura (validi dal 1 gennaio al 31 marzo 2011)</b>			
<b>Tipo di finanziamento</b>	<b>Importo</b>	<b>Tasso medio rilevato dalla Banca d'Italia (%)</b>	<b>Limite oltre il quale il tasso è considerato usuraio (%)</b>
Conti correnti garantiti e non garantiti	Fino a 5.000 euro	11,13	16,70
	Oltre 5.000 euro	9,02	13,53
Scoperti senza affidamento	Fino a 1.500 euro	15,64	23,46
	Oltre 1.500 euro	13,54	20,31
Anticipi e sconti	Fino a 5.000 euro	6,05	9,08
	da 5.000 euro a 100.000 euro	6,03	9,05
	Oltre 100.000	3,87	5,81
Factoring	Fino a 50.000 euro	5,41	8,12
	Oltre 50.000 euro	3,56	5,34
Crediti personali	Per tutti gli importi	11,3	16,95
Altri finanziamenti alle famiglie e alle imprese	Per tutti gli importi	11,98	17,97

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Prestiti contro cessione del quinto stipendio e della pensione	Fino a 5.000 euro	14,28	21,420
	Oltre a 5.000 euro	11,40	17,10
Leasing autoveicoli e aeronavali	Fino a 25.000 euro	8,36	12,54
	Oltre 25.000 euro	6,91	10,37
Leasing immobiliare	Per tutti gli importi	3,57	5,36
Leasing strumentale	Fino a 25.000 euro	8,58	12,87
	Oltre 25.000 euro	5,03	7,55
Credito finalizzato	Fino a 5.000 euro	11,82	17,73
	Oltre 5.000 euro	10,7	16,05
Credito revolving	Fino a 5.000 euro	17,28	25,92
	Oltre 5.000 euro	12,75	19,13
Mutui a tasso fisso	Per tutti gli importi	4,19	6,29
Mutui a tasso variabile	Per tutti gli importi	2,68	4,02

## ANNEX 2

### Contribution de l'UFC-Que Choisir sur les arrêtés d'application de la réforme des taux de l'usure

07/03/2011

Sur l'arrêté fixant les montants qui définissent les catégories de prêts servant de base à l'application du régime de l'usure

1. Nous regrettons que la proposition ne retienne que 3 paliers de taux d'usure, et en particulier qu'il n'y ait qu'un seul taux d'usure pour les crédits compris entre 0 et 3 000€. Nous souhaitons la distinction entre les crédits de 0 à 1 500€ et ceux entre 1 500€ et 3000€, et donc la création d'un palier pour les crédits inférieurs à 1 500€:
  - S'il est compréhensible qu'un crédit de 1 500€ ou moins ait un taux d'usure élevé (autour de 20%) du fait des coûts de création de dossier, en revanche que le même taux soit appliqué à un prêt entre 1 500 et 3 000€ n'est pas justifiable du fait même que les frais de dossiers sont des coûts fixes. C'est d'ailleurs pour cela que le système précédent reconnaissait que les crédits en dessous de 1 524€ méritaient un taux spécifique, contrairement à tous les crédits de somme supérieure.
  - De même, la mise en place d'un taux d'usure unique entraînera mécaniquement un alignement du taux d'usure actuellement pratiqué sur les «Prêts personnels et autres prêts d'un montant supérieur à 1 524€» sur les niveaux plus élevés des «Prêts d'un montant inférieur ou égal à 1 524€» et «Découverts en compte, prêts permanents et financements d'achats ou de ventes à tempérament d'un montant supérieur à 1 524€».
    - En effet les «taux effectifs moyens résultent, pour chaque catégorie de prêts définie par un arrêté du 25 juin 1990, de la moyenne arithmétique simple des TEG observés» (Source: Banque de France).
    - Or, d'après les données du rapport Athling confirmées par les banquiers, il y a aujourd'hui environ 43 millions de lignes de crédit renouvelables ouvertes, à un taux allant de 15 à 20%. 50% de ces lignes de crédit, soit 20 millions de crédits, sont de moins de 1 500 euros.
    - Du fait du calcul du taux par «moyenne arithmétique», et même si la Banque de France effectue des corrections, les crédits accordés pour des sommes supérieures et des taux plus faibles, bien moins nombreux, ne pourront compenser la masse des petits crédits à taux élevés. Le taux moyen pour les crédits de 0 à 3 000€ se fixera donc automatiquement au-delà de 15%.
    - Dès lors, rien n'empêchera des acteurs mal intentionnés de proposer des crédits personnels supérieurs à 1500€ à des taux bien plus élevés que précédemment (5,83% constatés aujourd'hui): ceux-ci pourront arguer qu'ils restent «en dessous du taux d'usure» et dans la légalité.

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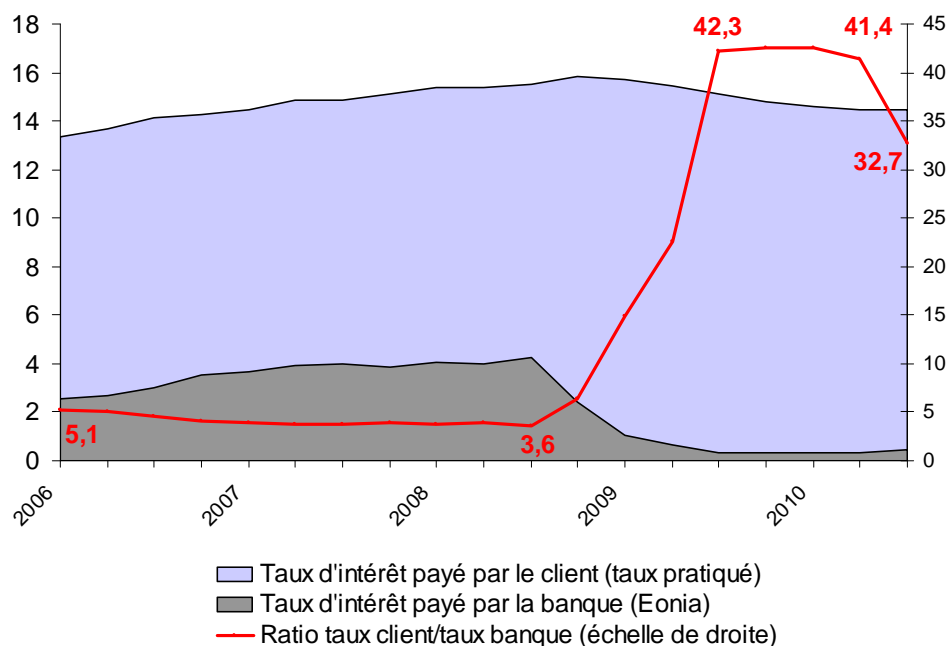
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- Ainsi, il nous semble illégitime que les taux élevés pratiqués par les petits crédits, s'ils sont légitimes sur ces sommes, puissent servir de référence sur les crédits intermédiaires de 1 500€ à 3 000€ et plaidons pour la création d'un palier de 1 500€ à 3 000€
2. De plus nous sommes étonnés de voir que le découvert en compte n'ait pas fait l'objet de mesures spécifiques et soit inclus dans les nouveaux régimes de droit commun, alors qu'il est d'une nature totalement différente : le taux du découvert en compte est fixé à l'ouverture d'un compte, et ne fait pas donc pas l'objet d'une vraie concurrence entre établissements. Son taux d'usure sera donc fixé, encore plus qu'auparavant, par les variations des taux moyens des crédits renouvelables et des crédits amortissables.

Au-delà de la question des paliers, nous regrettons que la réforme du taux de l'usure n'ait pas été accompagnée d'une réforme des modalités de calcul du taux d'usure, qui, aujourd'hui comme hier, répercutent automatiquement les pratiques, bonnes ou mauvaises, des banques.

Or, nous constatons que si les banques répercutent toute hausse des taux directeurs sur le coût des crédits, et donc sur le taux d'usure, il n'en est rien sur les baisses.

Par exemple, sur le taux d'usure pour les découverts : A partir de la mi-2008, l'Eonia (comme l'ensemble des taux) a fortement baissé, ce qui aurait dû entraîner une forte baisse des taux d'intérêts pratiqué pour des prêts qui touchent avant tout des personnes en difficultés financières. Or les banques n'ont pas baissé leur taux de découvert, ce qui a entraîné mécaniquement une stagnation du taux d'usure. A ce moment là, les banques revendaient l'argent du découvert à un taux 41 fois plus cher que le coût d'achat, sans que ce taux facturé au client puisse être jugé prohibitif !





Par conséquent, le système de calcul du taux d'usure, et donc du taux à partir duquel un prêt est jugé prohibitif, n'a aucun lien avec le coût de la « matière première » qu'est le taux directeur. Pour raisonner par l'absurde, avec le système actuel, il suffirait que l'ensemble des banques décide d'augmenter leur taux d'intérêt sans aucun lien avec le coût de la ressource pour que le taux d'usure augmente mécaniquement le trimestre suivant.

Nous demandons donc une vraie réforme de la formule de calcul du taux d'usure pour que le celui-ci devienne le vrai reflet d'un taux disproportionné au vu du coût de la matière première du crédit : le taux directeur. Ce calcul devra appliquer un coefficient multiplicateur maximum entre taux directeurs et taux d'intérêt facturés.

#### Sur l'arrêté portant mesures transitoires pour la détermination des taux de l'usure

Nous n'avons aucune remarque sur cet arrêté. Nous nous félicitons que le Ministre de l'économie puisse garder le contrôle de cette transition et fixer en cas de problème un taux de l'usure différent de celui qui résulte de la formule choisie.

END