

Report of the Expert Group on Credit Histories

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DG Internal Market and Services

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COMMISSION'S FOREWORD:

The Expert Group on Credit Histories was composed of representatives from relevant stakeholders: consumers, lenders, credit registers, central banks and data protection authorities. The experts took part in the discussions, the formulation of the recommendations and the drafting of the report. The three consumer representatives in the group have decided not to endorse the report for reasons related notably to consumer data protection concerns.

The Commission will now open a consultation phase before deciding on any appropriate follow-up.

The views expressed in this report are the views of the Expert Group on Credit Histories and its members, and not those of the European Commission.

EXECUTIVE SUMMARY

European consumers and financial actors cannot yet fully reap the benefits of an integrated European retail credit market. Retail credit markets are fragmented along national lines. A variety of factors contribute to the situation. Amongst them, the existing obstacles to the cross-border access to and the effective use of the borrower's credit data.

Credit data sharing between creditors is considered an essential element of the financial infrastructure that facilitates access to finance for consumers. The use of credit data in assessing borrowers' creditworthiness is key in order to enhance the quality of creditors' loans portfolio and thus reduce risks. It also assists creditors in complying with responsible lending obligations.

A wide variety of national solutions exist in order to assist creditors in assessing borrowers' credit applications. Existing differences in credit reporting systems are the outcome of different national regulations or approaches, cultural preferences and traditions. These differences may hinder the development of cross-border credit in two ways. Firstly, they may impede foreign creditors accessing national credit databases and thus denying them the possibility to properly assess a credit request. Secondly, even when access is possible, different data content, definitions and registration criteria may render the interpretation of foreign credit reports difficult and their information non-exploitable.

The Expert Group on Credit Histories (EGCH) has therefore been mandated by the European Commission to identify solutions that optimise the circulation of consumers' credit data within the EU. In doing that, the EGCH has taken into account the right to privacy and other consumer protection considerations. This report presents the EGCH's conclusions and recommendations.

The EGCH recognises the low appetite for and the high cost involved in radically changing large sized and complex national credit register systems in order to facilitate the current low level of cross-border lending activity. The EGCH has therefore rejected the options of either establishing an EU central credit data system or aligning all Member States to one existing or new credit data model. Instead, it recommends measures which are proportional to the problems tackled. Before being implemented, any solution will need to be carefully evaluated in terms of their costs and benefits for both consumers and creditors.

The EGCH acknowledges that improvements to the EU framework for credit data reporting and data sharing will not resolve all existing obstacles to the development of cross-border credit. Other important barriers will continue to hinder the integration of EU credit markets. Proximity to the client helps to comply with Know-Your-Customer principles. Debt recovery procedures across Europe are different as well as tax regimes. Language obstacles, differences in legislation and a certain lack of trust in foreign protection regimes also justify consumers' preference for national financial services providers. The EGCH experts believe, however, that the recommendations put forward in this report could contribute to enhance both creditors' business opportunities and borrowers' access to credit, while ensuring a high level of consumer and data protection.

The main EGCH recommendations are the following:

R.1: The EGCH recommends that a single pan-European retail credit register is not set up. It does not seem to be a realistic option and effective solution, at least for the foreseeable future.

R.2: The EGCH recommends that creditors be given free choice between all access models available to them, depending on the business case and having regard to data protection rules. The EGCH considers that the indirect access model may be the most suitable, as a first step in generating a cross-border market.

R.3: The EGCH recommends that national Data Protection Authorities work towards more convergence or harmonisation in the interpretation of data protection rules and in their practices in order to facilitate the process of cross-border credit data exchange.

R.4: The EGCH recommends that the Commission organises a roundtable discussion on credit data, identity theft and anti-money-laundering rules with the relevant national authorities.

R.5: The EGCH recommends that, in case of national differences regarding authorized purposes or actors, the use of the data should also comply with the national rules of the country where the data was collected.

R.6: The EGCH recommends that compliance with the non-discriminatory access to databases requirement in Article 9(1) of the Consumer Credit Directive should be considered, in particular, as providing foreign creditors access at the same level and terms as local creditors, i.e. with no additional barriers or privileges, and respecting the principle of reciprocity, without prejudice to data protection rules, as stated in Article 9(4) of the Consumer Credit Directive.

R.7: To promote greater cross-border responsible lending, the EGCH recommends that access to data should be possible, in line with national authorised purposes, throughout the credit lifecycle and after the expiry of the credit agreement, in particular, for the purpose of risk assessment, account management, collections, recoveries, including fraud prevention and anti-money laundering checks.

R.8: The EGCH recommends that the provisions in the Consumer Credit Directive regarding access to databases should be extended to cover legitimate creditors providing mortgage credit. In the view of some EGCH experts, it should also be extended to creditors providing consumer credit not currently covered by the Consumer Credit Directive.

R.9: The EGCH recommends that in case of cross-border data exchanges, the reciprocity principle must be preserved as a key requirement. It should be applied in a way that it also ensures non-discriminatory access to and exchange of credit data.

R.10: Some EGCH experts recommend that a foreign creditor should be able to access the borrower's home credit register only if the creditor participates in its own national CR.

R.11: The EGCH recommends reciprocity requirements to be proportionate. Thus, a foreign creditor accessing a borrower's data in a credit register should only report back data on that particular borrower.

R.12: The EGCH recommends the reciprocity principle to be interpreted as implying that creditors, when accessing a foreign credit register, would obtain the same type of data as that they provide.

R.13: In accordance with Article 12 of the Data Protection Directive most experts in the EGCH consider that an appropriate contribution by the consumer should be requested for database access. However, some experts in the EGCH consider that, in order to ensure better quality data, access upon request should be unlimited and free of charge, at least once a year.

R.14: The EGCH also recommends action to ensure a certain level of convergence, at cross-border level, regarding consumers' access conditions.

R.15: The EGCH recommends that, where provisions for comments on credit reports are in place, consumers are clearly informed on how to make such comments. Where such facilities are not available (for example by law), some EGCH experts recommend that clear guidelines be provided.

R.16: The EGCH recommends that, where not yet in place, appropriate and efficient data quality control mechanisms are introduced. For cross-border data exchanges adequate co-operation should be in place between those mechanisms.

R.17: The EGCH recommends that the credit data industry develops practical solutions that would assist creditors and consumers in understanding foreign credit reports.

R.18: The EGCH recommends handling at EU level, in cooperation with national Data Protection Authorities, the problem of data holder's identification taking into account the impact, in terms of costs, benefits and data protection, of any proposal.

R.19: The EGCH recommends Credit Registers to seek some degree of convergence of the content of their databases at the appropriate time. In particular with reference to the concepts and definitions used (e.g. bad debt, arrears, default, loan types...), as well as to data retention periods. Efforts should take into consideration the cost and benefits of the solutions to be implemented, as well as their impact in terms of data protection.

R.20: The EGCH recommends that:

- Credit Registers develop websites where their basic characteristics are clearly mentioned. Ideally, such websites should contain that information in the local language(s) and in English;
- the Commission develops a portal providing links to the different national Credit Registers' websites.

R.21: Some EGCH experts recommend that consumers should have an easy way to obtain redress in a cross-border context for the damage suffered due to wrong credit data or to its inappropriate use and/or any other breach of their rights.

R.22: The EGCH recommends that it should be easy for consumers to obtain (from Credit Registers and/or creditors) information about their rights, including on the various redress mechanisms available in case their data is wrong or mis-used.

1. INTRODUCTION

This report reflects the outcome of discussions within the EGCH over the period September 2008–April 2009. During this period, the group met eight times. Where points of view could not be reconciled, this is made clear in the body of the report.

The Group was established by the European Commission to identify solutions that optimise the circulation of consumers' credit data within the EU, whilst ensuring a high level of consumer protection. It gathered representatives from all relevant stakeholders in the area of credit data. A list of its members and observers is provided in Annex 1.

The role of Commission staff was to facilitate discussions – by providing secretarial support in organising and hosting the meetings, and contributing to put together the report. Consequently, this report shall not be construed as reflecting the position of the Commission or its services.

The report's analysis and recommendations, as well as reactions to them, will be taken into account by the Commission when developing its future position on credit histories.

2. BACKGROUND

At the moment, financial integration in Europe is uneven across segments: it is strong in money markets, progressing in bond and equity markets and much less advanced in a range of banking market segments¹. Cross-border activity can take place in different modes (similar to WTO modes of international service provision, where a fifth mode, relevant to the EU case, was added).

- (1) Cross-border service provision: crossing borders during the service provision (e.g. cross-border internet banking);
- (2) Consumption abroad: consumers who travel to another Member State to use the services provided there (e.g. 'financial services tourism', no long-term migration);
- (3) Commercial presence: Foreign direct investment in terms of establishing local presence (subsidiaries, branches of providers);
- (4) Presence of natural persons: Individuals who travel abroad to offer a service in another country (e.g. consultants or credit brokers)
- (5) Long-term migration: when Europeans choose to live and work in another Member State.

Non-integrated credit information markets in Europe can potentially impair 1), 2), 3) and 5), whereas 4) is of minor relevance.

¹ See ECB (2009), *Financial integration in Europe*, April, Frankfurt am Main.

Cross-border retail lending to households in the euro area is very limited. The share of euro area cross-border Monetary Financial Institutions (MFI) loans granted to non-MFIs has risen from 2 % of total loans in 1997 to 5.3 % in December 2008². Although approximately 20 % of Europeans use the Internet for financial services, in many instances it is regarded as an additional channel to the branch. Simple transactions are conducted online and more complex ones (also taking up mortgages) are mainly done through branches.

Among the potential impediments to cross-border financial services provision can be noted Know-Your-Customer policies (where the identity of a person has to be verified on sight), different systems of enforcement of collateral, clearing and settlement, differences in tax regimes, or languages.

Market entry in retail banking in Europe is primarily conducted through mergers and acquisitions (M&A). M&A typically aim at obtaining client portfolios and with it access to client information, but also to acquire the branch network and the proximity to the client. The relative importance of cross-border deals within the EU has increased over the past 15 years. EU cross-border M&A operations have increased in relation to domestic M&A. Some of the expansion strategies are also driven by restrictions on further national growth due to highly concentrated home markets. Another mode of entry for national presence is setting up branches and subsidiaries. The current practice of lending institutions is to have a local presence.

From the point of view of the consumer, one reason to access cross-border credit is buying a holiday house in another country. For instance, British persons might buy homes in Spain. For this, they would take up mortgage from a Spanish bank. Currently, banks in Spain can directly contact a credit register in the UK and request information. Further, they can update the file of the consumer. The reciprocity works on the level, where the reporting institution obtains only the information it searched for (for instance, if a company searches for negative information only or for positive and negative information). The Spanish bank does not have to provide information on Spanish consumers, but updates the report of the British person they have provided credit to.

Obstacles to the access to and the effective use of the borrower's credit data may have important consequences for all credit market actors.

Inaccurate credit risk assessment may lead to wrong credit granting decisions. Creditors who are unable to access complete credit data could therefore price the credit product incorrectly by under- or overestimating a borrower's credit risk. Creditors that overestimate a borrower's credit risk may then turn down the credit request or charge a higher interest rate. This places them at a competitive disadvantage vis-à-vis creditors which have more accurate and complete information. Creditors that underestimate credit risk may face unexpected losses. The absence of sufficient and accurate information, both at the point of credit acquisition and subsequent account management, may deter market entrants. Insufficient information can also render difficult

² The data is available on the ECB website at <http://www.ecb.europa.eu/stats/finint/html/index.en.html>. The data comprises Belgium, Germany, Ireland, Greece, Spain, France, Italy, Cyprus, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia and Finland and is used since no other data was available in consolidated form. The measure represents aggregate loans to private sector (corporate and households) and to governments. No disaggregated information for households alone is available from the ECB. However, the corporate segment probably dominates lending to households. Greater detail with regard to cross-border lending to households is not available from the ECB. Publicly available data only shows the position of a single country's banks vis-à-vis all borrowers/depositors of the aggregate euro area.

creditors' task when assessing the creditworthiness of the customer as provided for by the Consumer Credit Directive (Article 8).

Due to the fact that the creditors are unable to access accurate and sufficient information on their credit history, borrowers may find themselves with a credit product not adapted to their needs, having to pay an unnecessarily high interest rate, exposed to the risk of over-indebtedness or having their credit request turned down³.

Investors in asset backed securities need information on the quality of the underlying assets. When those refer to a portfolio of loans (e.g. mortgage), complete and accurate information about the loans included is required in order for the investor to determine whether to invest and at what price. Without that information, the investor may either decide not to invest or to demand a risk premium in order to compensate for the lack of information. This risk premium will result in higher refinancing costs for the lender that will, in turn, translate into higher borrowing costs for the consumer (or potentially to the exclusion of certain categories of borrowers).

While the development of credit reporting systems in most European countries aim at addressing those problems at the national level, in a cross-border context the situation should be improved. Some European credit registers have set up mechanisms for cross-border credit data sharing. Nevertheless, creditors cannot easily 'export' their screening technologies, as different markets have different credit reporting systems. As a result, the content of the credit reports may differ across countries and the interpretation of the information contained might be problematic, as terminology varies across countries. A better-working cross-border credit reporting framework could provide greater business opportunities and benefits for credit providers, as well as, a greater choice of cheaper credit products for borrowers.

Difficulties to access credit or to serve credit demands in another Member State may seem nowadays a small problem. The ongoing financial crisis has led lending institutions and consumers to reduce cross-border activity and to focus on local markets, where the perceived risk is lower. The EGCH remains, however, confident about the medium-term potential for the expansion of lending activities across borders. Once consumer demand picks up and creditors' reluctance to lend fades in a framework of economic recovery and enhanced data availability, credit reporting could increase in its importance for retail credit market integration. In any event, obstacles to credit data access and sharing could be a problem for the 15 million EU citizens⁴ who have used their right to work and live in another Member State than their country of origin and who often cannot initially access the full scale of financial services in the host country. The EGCH experts have focused on identifying what possible measures could be taken to address existing difficulties. Their work has concentrated on the access to and exchange of credit data on consumers. Other considerations may apply to corporate credit data which is, however, outside the scope of this report.

³ Some EGCH experts believe those risks to be lower in 'negative data only' countries (e.g. Denmark, Finland, France and Malta).

⁴ *Ten ways in which Europeans have benefited from the Single Market*, European Commission, November 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/464&format=HTML&aged=0&language=EN&guiLanguage=fr>.

3. CREDIT REPORTING SYSTEMS WITHIN THE EU

This chapter provides an overview of the different credit reporting systems that co-exist in Europe, their main role and characteristics. It also describes the problems that they are designed to overcome and the benefits that they bring to the economy. The final section presents the main data exchange arrangements already in place in Europe.

3.1. Types of Credit Reporting Systems

Public Credit Registers (PCRs) and private Credit Bureaus (CBs)⁵ are organisations which collect credit data on natural and/or legal persons. That information assists creditors in assessing the creditworthiness of the borrower and deciding on whether to grant the credit or not. Creditors also use that information to monitor the credit risk stemming from their credit portfolio. In some countries, such as Germany or the UK, data collected by CBs are also used to answer requests by other service providers (i.e. telecoms, utilities providers and/or mail-order businesses) to decide whether to supply certain type of service to a consumer when the payment is deferred.

The breadth and depth of credit information systems varies significantly between European countries. In some countries (e.g. Italy), both PCR and CB coexist⁶. In others, such as France and Belgium, there is only a PCR. Finally, in a number of countries (e.g. UK) there are only CBs⁷. The differences along national lines are due to a number of factors including market maturity and size, legal frameworks, culture, language and needs, which differ from country to country.

The following paragraphs describe the main features of and differences between PCRs and CBs.

3.1.1. Public Credit Registers

PCRs are registers operated by Central Banks or other supervisory authorities, which collect credit information about borrowers to make it available to reporting institutions as an input into their credit decisions and for other purposes linked to their legally recognized role.

Some PCRs were initially set up for banking supervisory functions and in particular, for monitoring financial risks. Nowadays, however, the majority of European PCRs also provide credit reports to creditors and consumers (on their own situation), as part of their daily operations. These registers may store data above a certain minimum amount, which may differ significantly from country to country.

The sharing of credit information is in the public interest from a financial stability and supervisory perspective. That is why, in many countries, regulations entrust to a public authority (generally the one in charge of banking supervision) the task of organising the collection and distribution of credit data through a public credit register.

⁵ In the rest of the report the term 'credit register' will be used to refer to both PCRs and CBs.

⁶ See also Jentzsch, N. (2007), *Financial Privacy – An International Comparison of Credit Reporting Systems*, 2. Edition, Springer-Verlag, Heidelberg.

⁷ Annex 7 provides an overview of the presence of PCRs and CBs in the different EU countries.

Contribution to the PCR's database is compulsory by virtue of national law. Regulations define the institutions that are obliged to contribute data (the so-called 'reporting institutions'), the type of borrowers that must be reported, and the information that must be provided. Mandatory reporting allows a very high coverage of the credit market above a certain threshold⁸. The authority in charge of a PCR is generally endowed with enforcement powers which can be used to obtain the correction of inaccuracies or the communication of missing data. Failure to comply can result in sanctions.

The information provided by creditors can be controlled by means of on-site inspections (provided for by law or regulations), logical-statistical checks or cross-checks with other information provided by creditors to the supervisory authority, as well as through consumer complaints.

Most PCRs typically focus on collecting corporate and consumer's credit data. They collect credit information on the type of loan and their characteristics, such as, maturity, currency, guarantees... but exclude information from non-financial sectors, such as telecoms, utilities, retail businesses, etc. PCRs do not generally provide additional services to creditors, such as credit scoring or portfolio monitoring.

3.1.2. *Private Credit Bureaus*

Private Credit Bureaus (CBs) are privately owned and can have a number of ownership structures that can be summarised as follows:

- CBs in which creditors and/or other services to providers are either majority or minority shareholders;
- CBs owned and operated by specialized firms with no ownership by creditors;
- CBs formed on the basis of associations.

According to a recent ACCIS⁹ survey most of CBs in Europe operate for profit while only a small proportion operate not for profit¹⁰. The latter are typically owned by the local banking associations. Most European CBs are owned by specialised firms.

CBs collect credit information from different types of creditors. CBs activities can be summarised in the following way¹¹:

- CBs receive information from creditors and/or public sources (courts, public registers, tax authorities, etc) and then merge the data;
- CBs analyse and interpret the data for a quality control;
- CBs provide this data and/or a credit report to creditors;
- CBs provide additional services (e.g. fraud prevention, credit scoring).

⁸ The amount of debt above which the credit is reported to the credit register.

⁹ The Association of Consumer Credit Information Suppliers (ACCIS) has been established in Dublin in 1990, it currently brings together 35 consumer credit reference agencies in 25 European countries and 7 associate members from all other continents. In relation to the survey, ACCIS received from its members 28 answers which means that the survey cover the 85 % of all European population.

¹⁰ E.g. KSV in Austria or BKR in Holland.

¹¹ IFC-World Bank, *Credit bureau knowledge guide*, Washington 2006 and EGCH.

Creditors can obtain a flow of data about a credit applicant by requesting a credit report from the CB. Creditors which provide data to CBs are granted access to the common database insofar as the data provided is timely and accurate. CBs, as well as PCRs, do not participate in the decision as to whether granting or not granting credit to a borrower, this totally remains in the creditors' hands given they hold the risk.

Most CBs operate for profit. Since CBs earnings are generally proportional to the number of reports issued, and the number of reports increases with the number of creditors included in the CB, they generally have an incentive to have as many creditors as possible as clients.

CBs offer, depending on the national laws, their services to a large number of actors (banks, financial institutions, credit card companies, consumer credit companies, leasing companies, utilities providers, telecom providers, etc.). As additional services to their clients, CBs can issue several sorts of credit reports, depending on the information gathered, the type of credit application (consumer credit, mortgage credit, business loan, credit card, etc.) and, most importantly, the amount of detail requested by the creditor. Reports range from simple statements of past defaults or arrears ('negative' data)¹² to detailed reports on the applicant's assets and liabilities, guarantees, debt maturity structure, pattern of repayments, etc ('positive' data); within the limits of respective national provisions on data protection. Annex 6 provides an overview of these additional services per country. Some CBs also use statistical models to produce and sell 'credit scoring' services which are usually based on the whole credit bureau dataset or on a representative sample of the data. Scoring models are also developed by the financial institutions themselves, or third-party providers. The type and structure of the information that they can provide to non-creditors differs between countries, and in some instances is regulated by domestic law.

3.1.3. *PCRs and CBs: similarities and divergences*

The compulsory nature of PCRs data contribution means that 100 % of the population that receives credit is covered, sometimes above a minimum amount (threshold) determined by law. CBs, usually, have a lower threshold. They collect and manage more detailed information and often from more varied sources within the given legal framework. However, the fact that reporting is voluntary can imply a lower coverage of the credit market.

PCRs and CBs are based on the principle of reciprocity, which generally lies at the core of any credit reporting system¹³. This principle means that members of a credit register can obtain credit information only if they provide credit information to it. As mentioned above, although data contribution to PCRs is mandatory by law for creditors, data contribution (based on the principle of reciprocity) to a CB is one of the key features of the contract¹⁴.

¹² See the Data content section for more details on the different types of data.

¹³ The principle of reciprocity will be explained in more detail in the Data access chapter.

¹⁴ Creditors, before accessing the bureau, sign a contract with the bureau owner specifying all the clauses, including the type of data that creditor contribute and can consult, as well as the fees.

Creditors supply information to the credit register on their credit relations. They update the information either instantly or with a frequency set by the credit register and are obliged to correct the delivered information in case they should find that the information provided is wrong and/or outdated. Creditors have to assure the quality and accuracy of the data¹⁵.

The borrower has the right to access, update, review and correct his/her personal data¹⁶. By accessing his/her data, borrowers contribute to its accuracy.

The main features of PCRs and CBs are summarised in Table 1.

Table 1: Main features of Credit Bureaus and Public Credit Registers in the EU

	Credit Bureau	Public Credit Register
Ownership structure	Private/commercial entity	Central Bank or Supervisory Authority
Clients structure	Mainly creditors but sometimes also other services providers	Financial institutions authorised to grant credit
Scope	Credit assessment and monitoring	<ul style="list-style-type: none"> ▪ Banking supervision, building statistics, financial stability studies ▪ Monitoring and preventing over-indebtedness ▪ Credit assessment ▪ Fostering credit institutions prudent management
Creditors' participation	Generally voluntary	Mandatory by law
Principle of reciprocity/Non discriminatory access	Yes	Yes
Type of data stored	<ul style="list-style-type: none"> ▪ Full credit data (positive and negative data) ▪ Often also non-credit data 	<ul style="list-style-type: none"> ▪ Credit data from financial institutions authorised to grant credit (including both positive and negative data in a majority of cases) ▪ Data on bankruptcy of natural and legal persons
Additional services provided to creditors	Mainly: <ul style="list-style-type: none"> ▪ Credit scoring based on the whole CB dataset ▪ Software applications ▪ Portfolio management services ▪ Fraud prevention systems ▪ Authentication products... 	None
Use of thresholds	Yes, but generally low	Yes
Degree of detail of the information provided ¹⁷	Detailed information on each individual loan. In some countries, credit information merged with other data (e.g. from public sources).	Information sometimes in a consolidated form (giving the total loan exposure of each borrower). In some PCRs, (Belgium, Italy, Portugal or Spain), the information is also given in a detailed form.
Coverage	Depends on the legislation, length of service provided, financial culture, etc.	Universal coverage

¹⁵ See Articles 6(1)(c) and (d) of Directive 95/46/EC.

¹⁶ See Article 12 of Directive 95/46/EC.

¹⁷ For further details please see Anna Matuszyk and Lyn Thomas, *The evolution of credit bureaus in European country*, Journal of financial transformation, 2008.

The type of credit register operating in different European countries varies considerably (see Table 2). Most countries have both PCRs and CBs. Only Luxembourg has no credit register. In the whole EU, there are more CBs than PCRs. In a few countries, there is more than one CB.

Table 2: European Credit Reporting System

Country	PCR	No. of CBs		Ownership structure			
		For Profit	Not for Profit	Not Ownership by creditors	More than 50 % ownership by creditors	50 % or less ownership by creditors	Other (association, public organisation...)
Austria	yes		1				1
Belgium	yes						
Bulgaria	yes	1		1			
Cyprus	no	1				1	
Czech Republic	yes	1			1		
Denmark	no	2		2			
Estonia	no	1		1			
Finland	no	1		1			
France	yes						
Germany	yes*	1*			1		
Greece	no	1			1		
Hungary	no	1			1		
Ireland	no	1			1		
Italy	yes	2	1	1		1	1
Latvia	yes						1
Lithuania	yes	1				1	
Luxembourg	no						
Malta	no	1				1	
Netherlands	no	1	1	1			1
Portugal	yes	1				1	
Poland	no	1**		–	1	–	
Romania	yes	2		1	1		
Slovakia	yes	2		1	1		
Slovenia	yes		1				1
Spain	yes	2		1		1	
Sweden	no	6		5	1		
United Kingdom	no	3		3			

PCR=Public Credit Register

CB=Private Credit Bureau as defined in Annex 2. It does not include municipal court's judgement records.

* The credit register operated by the Central Bank does not cover data on consumers. Concerning CBs, only one collects information from creditors. However, there are at least five other information bureaus which compile information from public sources.

** Apart from the Credit Information Bureau, also the Polish Bank Association processes data from banks (mainly anti-fraud)

Sources:

– ACCIS, *Fact Sheet*, December 2007.

– IFC, website: <http://www.ifc.org/ifcext/gfm.nsf/Content/FinancialInfrastructure-PCB-List>

– A. Matuszyk & L. Thomas, *The evolution of credit bureaus in European country*, Journal of financial transformation, 2008.

– N. Jentzsch, *Financial Privacy. An international comparison of credit reporting systems*, Springer Verlag, Heidelberg, 2007.

The credit reporting business is characterised by network externalities and economies of scale that could potentially classify a CB as a natural monopoly. There is an ongoing debate on the optimal number of CB in a market which has – as yet – failed to reach a consensus. There is clearly an element of network effects with CBs: they become more useful to creditors as the coverage of potential borrowers increases; a better coverage of creditors is more highly valued because any creditor that relies on the data can be more confident about having the totality of information on a borrowers' credit activity; and additional membership can help amortise a CB's fixed costs.

An overview of the type of data that PCRs and CBs store and other characteristics are provided in the Annexes. The first relevant point is the strong presence of full data (i.e. both positive and negative data) across the European credit reporting system¹⁸. Only in Denmark, Finland, France and Malta do credit registers store negative-only information. Annex 7, in particular, also shows that CBs operations and services are mainly focused to creditors, which primarily use them to assess borrowers' creditworthiness (as generally imposed by national legal restrictions). However, credit data may sometimes be used also for other purposes (fraud prevention, debt collection...) and not only by creditors. Thus, anything that would impact the existing and very complex system may not only affect the financial services industry but also other sectors that use credit data.

3.2. Credit Reporting Systems: rationale and legal framework

Today, credit data sharing between creditors is considered an essential element of the financial infrastructure that facilitates access to a greater volume of finance for consumers. The availability of information renders the granting of credit more efficient by greatly reducing the time necessary to take decisions. However, in the EGCH's view, the ability to speed up the process of granting a credit must not be at the borrower's or creditor's detriment.

The current financial crisis shows how important a sound and responsible evaluation of borrowers' creditworthiness may be.

3.2.1. Asymmetric information

Financial markets are characterised by the problem of asymmetric information between borrowers and creditors. The credit reporting system is considered to represent an institutional response to this problem on the side of the creditor. In other words, it completes the information provided directly by a credit applicant – which may or may not be a true reflection of his/her credit risk or ability to repay the loan. A credit reporting system is an effective tool towards mitigating adverse selection/moral hazard related problems¹⁹. It has also been found to lower overall default and interest rates – creditors will lend at more attractive rates when they 'know' the borrower and have confidence in their ability to underwrite the loan. Borrowers with impaired credit reports, on the other hand, will have to pay a premium²⁰.

¹⁸ According to a recent ACCIS survey (2007), more than 80 % of ACCIS members store positive data, which covers 85 % of European consumers.

¹⁹ 'Adverse selection' refers to the development in markets with severe asymmetric information. Creditors can only observe the average risk of borrowers in the market with the result of over-charging low-risk ones and under-charging high-risk borrowers. 'Moral hazard' refers to the situation when the party with more information about his/her actions or intentions (i.e. the borrower) has an incentive to behave inappropriately from the perspective of the party with less information (i.e. the creditor).

²⁰ However, in countries where legislation fixes ceiling rates (e.g. usury rates legislation), the creditor's flexibility to adapt the interest rate to the borrower's risk profile is more limited.

Motivation to acquire goods or services is the driver for seeking a credit. Access to credit has benefited both businesses and consumers. For many people the most important and expensive item they buy on credit is their home. Access to credit and robust decision mechanisms have enabled large rises in home ownership. However, a line of credit can only be granted based on the accuracy of the information provided to the creditor at the point of application and here the borrower has a responsibility to be truthful and responsible in their contract with the creditor.

The need for sharing data came when creditors understood that it was an effective way to reduce the risk and increase the efficiency of the process before underwriting credit. In the absence of the necessary data to screen credit applications and to monitor borrowers, creditors faced adverse selection and moral hazard problems. The importance of information in the credit market, to prevent the inefficient allocation of the credit, is well described in various academic works²¹.

The incentive to share information between creditors depends on borrowers' mobility, the heterogeneity of the population, the degree of competition of the financial sector²². Fear of competition can however sometimes make creditors hesitant to share their client information. Creditors are obliged by law to provide PCRs with data. In the case of CBs data provision is generally based on contractual obligations. Yet CBs are 'natural monopolies' with increasing returns to scale: when some creditors begin to share information, it creates an incentive for other creditors to share information as well. However, the lack of competition also lessens incentives for such a CB to improve data quality, provide value-added services and lower prices. There exists a counter-balance that inappropriate levels of data quality could through both litigation costs and serious reputational costs among all its stakeholders destroy a CB. Small markets cannot support more than one CB, however some larger markets (e.g. UK and Italy), have a very competitive credit information industry with two or more CBs actively competing.

3.2.2. *Purposes of credit data sharing*

The purpose of credit data sharing is to support creditors analysing a borrowers' creditworthiness. Information sharing about borrowers' characteristics and their indebtedness has important effects on credit markets activity. First, it improves the creditors' knowledge of the borrower's characteristics and permits a more accurate prediction of their repayment probabilities if the data is accurate and up-to-date. It therefore assists creditors in complying with responsible lending obligations. Second, it helps creditors acquire that information more quickly and often at a lower cost. Third, in the case of default data sharing, it can operate as a borrower discipline device²³. Finally, it reduces the risk that borrowers become over-indebted by drawing credit simultaneously from too many creditors.

²¹ See for example, Akerlof George, *The market of lemons*, Quarterly Journal of Economics 84, 1970 and Stiglitz Joseph and Andrew Weiss, *Credit rationing in markets with imperfect information*, American Economic Review 71, June 1981.

²² Pagano, Marco and Tullio Jappelli (1993), *Information Sharing in Credit Markets*, Journal of Finance XLVIII (5): 1693–718.

²³ Jorge A. Padilla and Marco Pagano, *Endogenous communication among creditors and entrepreneurial incentives*, Review of financial Studies 10, Spring 1997.

Credit information not only helps to determine an individual's payment capacity and characteristics, but also affects the overall incentives of economic performance. On the one hand, consumers may be encouraged to meet his/her obligations when s/he knows that the non-compliance with his/her obligations will be entered into a database that may be accessed by creditors (and in some cases also service suppliers). On the other hand, it is in the interest of non-defaulting consumers that firms with whom they want to deal have access to their personal data showing that they have duly fulfilled their obligations. In this way, they will obtain lower rates and better conditions for the purchase of goods and services as creditors will be able to apply risk-based prices and, thus, would incur lower risks and costs²⁴. It may also lead creditors to shift from collateral-based lending policies to more information based policies, which has a direct impact on the cost of credit or service and will lead to objective credit decisions²⁵.

The main advantages of data sharing for the different credit market actors are summarised in the following table.

Table 3: Stakeholders' advantages of sharing accurate and comprehensive credit data

For creditors credit data sharing can:	For borrowers credit data sharing can:	For regulators credit data sharing can:
<ul style="list-style-type: none"> ▪ Reduce information asymmetry ▪ Enhance responsible lending ▪ Reduce collateral requests ▪ Measure and price the underlying risk of an account objectively thereby minimising lending risks ▪ Gain better understanding of the credit history of customers ▪ Effectively manage cross-institution exposures ▪ Improve credit portfolio ▪ Help institutions increase segment specialisation and market products better ▪ Process credit applications easier, faster, cheaper and with more control and consistency ▪ Enhance credit risk management practices in line with global best practices. 	<ul style="list-style-type: none"> ▪ Easier access to credit (for compliant borrowers or previously excluded groups of customers) if the data available is accurate and up-to-date ▪ Contribute to obtaining a price that reflects better their individual circumstances ▪ Help them to better understand the need to manage their credit ▪ Reduce the use of guarantees ▪ Expand their access to a wide range of (affordable) services and products (for compliant borrowers) ▪ Prevent over-indebtedness ▪ Enhance responsible borrowing ▪ Reduce the need to provide extensive physical proofs or evidence. 	<ul style="list-style-type: none"> ▪ Improve access to accurate and timely data about the state of the financial market ▪ Improve systemic financial stability ▪ Promote sound development of the national credit system ▪ Foster the sound and prudent management of reporting institutions by providing them with credit risk assessment tools needed to improve the quality of their credit portfolio ▪ Facilitate the detection and prevention of fraud and other crimes. ▪ Help them obtaining useful information for statistical and other legally based purposes. ▪ Be one of the tools to prevent over-indebtedness. ▪ Provide a more auditable process to help prevent subjective discrimination.

²⁴ Full data information sharing can also rescue a rehabilitating borrower quicker as a recent good risk experience outweigh historical defaults.

²⁵ Jappelli Tullio and Marco Pagano, *Information sharing, lending and default: cross-country evidence*, CSEF working paper No. 22, University of Salerno, Italy, 1999.

While recognising the benefits of credit information sharing, EGCH experts have also identified some of its drawbacks:

- Information sharing does not address some of the causes of over-indebtedness, which is often the consequence of unexpected life events, such as divorce, unemployment or illness;
- Borrowers may feel uneasy about their personal data being shared. The greater the circle of parties who have access to the information, the greater the risk of identity theft, or unauthorised disclosure to third parties;
- Consumer associations have voiced concerns about the ability of credit data to adequately reflect individual situations and how that data is assessed. Wrong or disputed claims may further distort the picture and affect the borrowers' legal rights to withhold or reject a payment, if such information is not properly registered;
- Information sharing can also affect different economic spheres of a consumer. This is for example the case when information is shared among different economic segments (telecom, utilities, etc). If there is a default on a loan, the consumer might be excluded from other services or only gain access to them at higher prices.

In a cross-border context, information sharing may also raise additional concerns regarding privacy and consumer protection:

- It might be not clear for consumers to which companies their information is transferred, whether it is shared with third parties and whether these, in turn, share it with other institutions;
- Access to the information as well as rectification of errors or outdated information cross-borders might put additional burden on consumers;
- Different data content and definitions may render difficult a proper assessment of the credit application. The risk of discrimination based on inaccurate information is therefore higher.

3.2.3. *Legal framework*

Sharing information is directly linked to personal data protection rules and with the person's right to access his/her data. Data protection regulations go beyond the consumer whose data are being protected. A regime that properly and effectively protects data fosters consumers' and creditors' confidence. Within the EU, credit registers must comply with national legislation implementing the Data Protection Directive 1995/46/EC²⁶ that stipulates how to collect, retain, process, access and delete personal data and outlines the way to exchange data cross-border, between EU countries and also outside Europe. This is mostly described in the Article 7 of the Directive.

The enforcement of the existing personal data protection regulatory framework promotes confidence. This balance is key for the financial system. It also confers borrowers a number of rights regarding the use of their data. This is why PCRs and CBs operate in a strictly regulated framework, both at the EU and domestic level. It is important to keep in mind that data protection rules set, as a principle, the control of consumers over their personal data.

²⁶ Official Journal L 281, 23.11.1995, pp. 31–50.

At national level, credit registers have to comply with:

- National laws on protection of personal data;
- Consumer protection law;
- Banking law;
- Other sectoral regulations (e.g. insurance law).

In some countries, such as Belgium, Netherlands, Spain, Sweden and Greece, credit registers' operation is regulated by a specific act. In other countries, they are also regulated by law but, in addition, they have to respect a binding Code of Conduct, often issued by national Data Protection Authorities (e.g. Italy) and underpinned by data protection and contractual provisions (e.g. UK).

The Capital Requirements Directives (CRD) for credit institutions and investment firms (Directives 2006/48/EC and 2006/49/EC) also affect credit reporting systems and their activities, as described in its Annex III. It establishes the period of data retention for credit data that has to be used for developing credit risk models.

Finally, Articles 8 and 9 of the Consumer Credit Directive 2008/48/EC which deal respectively with the 'Obligation to assess creditworthiness' and 'Database access'. The Directive stresses the importance of assessing creditworthiness on the basis of sufficient information and, where appropriate, on the basis of a consultation of the relevant databases. Access to the relevant databases shall be in a non-discriminatory way and in compliance with the data protection legislation²⁷.

3.3. Existing cross-border data exchanges

3.3.1. Public arrangements

In 2003, the Governors of seven European Central Banks signed a Memorandum of Understanding (MoU) aiming at facilitating the exchange of credit data between their respective PCRs. In 2005, these PCRs started to exchange their data with the objective to provide creditors a more complete overview of the borrowers' indebtedness.

The exchange is currently focused on data from legal entities resident in one of the seven countries. This is due to cost/benefit considerations, the number and significance of foreign individuals registered in the PCRs being rather low and the efforts for an unambiguous identification being disproportionately high. Nevertheless, the agreement foresees the exchange of credit data for both legal entities and individuals. The MoU has provided a framework for the regular exchange of information among PCRs as well as for handling ad hoc requests from creditors. Regardless of the national applicable reporting thresholds, PCRs provide each other with information stored on a given borrower if its debt exceeds EUR 25 000.

²⁷ Article 9(4) of the Consumer Credit Directive.

On a quarterly basis, every PCR receives information on borrowers that are resident in its country (regular exchange) and transmits it to the creditors that are currently providing information concerning those borrowers. Each creditor may have access to the information concerning every borrower, irrespective of whether resident or non-resident, by referring to its PCR (ad hoc request). The transmission of information follows national laws and regulations, regardless of whether the borrower is considered as resident or as non-resident by the foreign PCR.

In case the requested borrower is a non-resident, the PCR will pass the request on to the register of the country in which the borrower resides. Data exchange is transmitted through the dedicated network connecting each PCR to the European Central Bank.

The realization of the exchange is the result of significant work and negotiations among PCRs. In some countries, it was necessary to eliminate some legal obstacles, in order to authorise the PCR:

- to give foreign PCRs access to its database with the aim to forward the received information to their reporting institutions;
- to provide the reporting institutions with the information received through the exchange.

At the beginning, the various parties have worked to set a common frame of principles in the form of a MoU. Then, efforts have concentrated on technical and organisational aspects to start up the actual exchange.

3.3.2. *Private arrangements*

ACCIS has actively encouraged the reciprocal exchange of credit information between its Members to the extent that national regulatory frameworks allow data exchange within and between Member States.

Since the 1990s, some ACCIS members (e.g. Germany, Netherlands, Belgium, Italy, Sweden, Poland and Austria) – have signed bilateral Credit Bureau Data Exchange Agreements (CBDE-Contract) on the exchange of information, in order to improve the cross-border accessibility and transferability of credit data and to support their clients (primarily credit institutions).

Some credit registers already enable cross-border data access to their clients for 'out-of-country' lending. This access can be on the same terms and conditions as would have been the case if that creditor had been 'in-country' (as provided for in the EU Consumer Credit Directive Article 9). All credit registers using the CBDE-Contract supply their data cross-border when there has been a demand. However, the increase in cross-border data sharing does not depend on credit registers or on the automation of the exchange. It depends on borrowers' needs and the corresponding demand from creditors, as well as local laws and permissions.

Two real-life examples currently in operation are presented below. They involve the exchange of credit data between the National Bank of Belgium and BKR (Dutch credit register), and the exchange between BKR and CRIF (Italian credit register).

Example 1: Number of data enquires between BKR and CRIF

	2005	2006	2007
From BKR to CRIF	223	258	369
From CRIF to BKR	N.A	N.A	N.A

Source: BKR and CRIF

Example 2: Number of data enquires between BKR and NBB

	2005	2006	2007
From BKR to NBB	9 714	12 565	12 346
From NBB to BKR	5 143	5 009	4 822

Source: BKR and National Bank of Belgium

Example 1 shows that the yearly amount of inquiries from BKR to CRIF is very low. They represent only a tiny proportion of the total number of data requests received by BKR from Dutch creditors in those years. In the second example, while the figures show an increase during the years in the exchange of credit data between BKR and NBB and vice-versa, nevertheless these inquiries represent only the 0.17 % of total amount of consultations received by NBB in those years. Both cases indicate that if there is a request (i.e. demand from financial institutions), credit registers have provided an answer to the market and handle it in a satisfactory way, while respecting the regulatory framework (both European and national).

4. ACCESS TO CREDIT DATA

This chapter describes the possible different models for cross-border data exchange, as well as their advantages and drawbacks. It analyses the legal, regulatory and commercial conditions that may have an impact on the cross-border exchange of data.

The chapter also focuses on one of the key principles that determine credit data exchanges, the principle of reciprocity. Finally, the access of the consumer to his/her own data is examined, with a particular focus on issues such as transparency.

4.1. Cross-border access

The EGCH experts identify four possible models of cross-border data access:

- the direct access model;
- the indirect access model;
- the report portability model;
- the right of access model.

In the EU, the three first models are currently used and coexist. The choice of one model rather than another is driven by market forces and local regulations. They are not mutually exclusive.

Two issues are common to all models. The first issue concerns data interpretation by the creditors. This can pose difficulties because there are differences in data definition and content among credit registers due to local regulations, usages and languages. The second is the homonymy problem. This refers to the correct identification of the borrower. This problem, which even exists at the national level in many Member States, could be even more difficult to address in a cross-border context which multiplies the frequency of such cases. Both data content and identification related problems will be discussed in Chapter 5. In addition, all models need to be evaluated in terms of the impact from a data protection angle.

4.1.1. *The direct access model*

In the direct access model, the creditor from country A accesses the credit data of the borrower from country B stored in a credit register located in country B. Based on the principle of reciprocity, after having granted a credit to that consumer, the creditor of country A could be required to report the data and possibly the payment performance on that credit to the credit register located in country B. Figure 1 shows the data flows within this model.

The scope of data reported by the creditor in country A to the credit register located in country B will depend on the rules applicable to the credit registers in both country A and B and will be subject to local data protection regulation. For example, in the case of a UK resident wishing to get a credit in Spain to purchase a good or a service in Spain, the Spanish creditor will consult one or more of the UK credit registers, possibly in addition to the local (Spanish) credit register(s). Like any in-country creditor, the creditor may choose to check more than one register depending on the depth of data and perceived risk, as data may vary between credit registers. The payment performance data will be held on the UK credit register accessed, i.e. the register of the borrower's permanent residence.

This model is used by some credit registers, for example in the UK.

Advantages

This option is cost effective for the creditors already member of the credit register in the borrower's home country. They will see any out-of-country borrowings when accessing the credit register. It is likely that a borrower will still use in-country creditors (and there will already be a core of credits from in-country creditors to that borrower which require registers checks for ongoing account management).

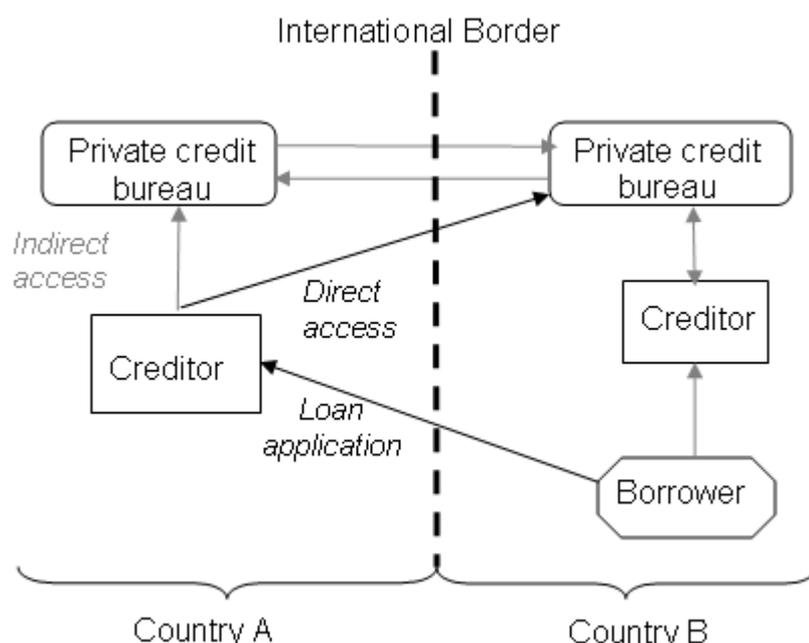
It is also compliant with the freedom to provide services principle in order to offer credit in another Member State and preserves the rights of data subjects whose credit data remain accessible in their country of residence. In addition, it should not involve costly IT developments for credit registers and respects each Member States' model of credit register. From the creditor point of view, it creates a 'knowledge link' (understanding of data in terms of economic reality of the foreign country).

Disadvantages

This model is not very attractive to foreign creditors, especially if they only do business to a limited extent in country B or with borrowers from country B. Accessing data of a credit register in country B directly would imply that a creditor located in country A – under the principle of reciprocity – would have to report data on credit granted in country B to the register in the scope, format and frequency that is required by the credit register in country B. It can entail a great deal of cost for the creditor, e.g. by applying a manual process or even by integrating an automated interface to the foreign database. Costs will depend on how much this data differs from the data structure in the creditor's national registers. There may also be some issues regarding data quality and the security of the data.

This model implies that the comprehensiveness of the information collected by the CR will depend on the decision by the creditor to access the information from the CR in the country of the borrower. It will also render more difficult the control of foreign creditors regarding the fulfilment of their obligations (contractual or regulatory) towards the credit register and therefore have a higher impact on data protection principles. In addition, credit registers should prepare for new types of users which implies changes in the Charters or Articles of Association of the CB or in the applicable law for PCRs.

Figure 1: Direct and indirect cross-border data access models



Source: Jentzsch, N. (2007), *Do We Need a European Directive for Credit Reporting?* CESifo – Dice Report 2: 49–54.

4.1.2. *The indirect access model*

In the indirect access model (see Figure 1), in order to get the credit data of a borrower from country B, the creditor resident in country A accesses credit registers located in country B through credit registers located in country A.

The creditor has a unique interface with the usual credit register in its country. The creditor will report the data on the credit granted and/or payment performance to that credit register according to the rules applicable to it. The link between the two credit registers will enable the borrower's 'home' credit register (in country B) to know (by a flag/pointer system or by periodic transfer of data) that there is additional foreign data to be factored into their credit reports.

This is the model used under the Memorandum of Understanding between seven European central banks. For the time being, however, comparison is of limited effect since the exchange only concerns credit data of corporate borrowers (in principle more easily identifiable through their registration in commercial registers) and does not include any payment performance data at all.

This is also the model on which the ACCIS CBDE-Contract is based, and which has enabled the data exchange between credit registers from Belgium, Germany, Netherlands and Italy for several years.

Advantages

This model is a cost effective solution for foreign creditors, especially if they are not doing business in that country on a large scale. They continue to use the interface they are familiar with, i.e. their home registers. It generates economies of scale: the conversion/translation of data format and technical issues is done once by the credit register for all its members.

This model also facilitates the control of the creditors regarding the fulfilment of their obligations (contractual or regulatory) towards the credit registers. Likewise, it is easier for the credit register to comply with Article 6(2) of the Data Protection Directive (responsibility of the data controller regarding data quality).

Disadvantages

This model requires building a network between credit registers. This also implies technical and security issues. It is also necessary to conclude agreements regarding the data exchange (content, frequency, procedure).

4.1.3. The report portability model

Under the report portability model, it is the borrower who collects his/her own credit reports from the credit registers. S/he then provides them to the creditor. This model is sometimes used for mobile borrowers such as citizens moving to/working in a foreign Member State (country A) and applying for a credit (whether in country A or in their home country, country B). When there is no data exchange between countries A and B, the creditor could require that the consumer provides his/her credit history.

Advantages

This model appears easy to implement. There is no need to obtain the consent of borrowers for accessing a foreign credit register, consent is implicit. It has also the preference of consumer organisations and some data protection authorities (consumer's control is higher; s/he has the opportunity to check the accuracy of the data).

Disadvantages

Under this model, each borrower must manage all domestic rules/procedures on how to access their data in each country. There also exists the risk that the document provided by the borrower could be easily forged or swiftly become out of date. As such, some EGCH experts have argued that creditors will be unlikely to lend based upon uncorroborated information provision.

It could also imply a competitive disadvantage for local creditors: in some Member States, private individuals get their own credit report free of charge from the local credit register but the creditors in the same countries must pay to access the same data. Competitive distortions could also arise from disparities in the level of informative detail provided to national creditors. This is the case when the credit report's content is different when provided to the borrower than when provided to the creditors. For example, in Belgium and Germany, the report provided to the borrower includes the identity of the creditors but the report on the same borrower provided to creditors when they access the credit register does not mention that detail.

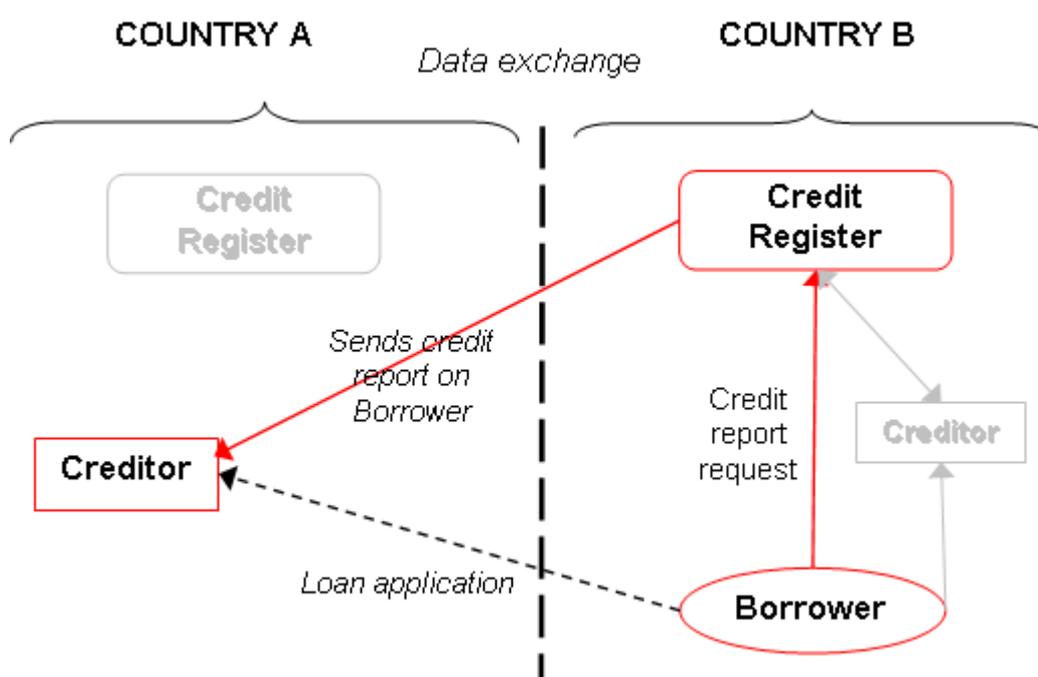
Finally, there is the risk of misuse of the data from organisations other than creditors and that are not permitted to access the credit register (e.g. landlords, employers).

4.1.4. The right-of-access model

In this model, when a borrower applies for a credit, the creditor would require the borrower to ask the relevant credit register in his/her country of origin to send an authenticated credit report directly to the creditor on his/her behalf (see Figure 2). The actual production and provision of the report is done by the credit register. The borrower would never actually have the credit report in his/her hands (although receiving a copy would increase the transparency for the borrower).

The content of the report should not include the name of the reporting entities. The content intended for cross-border exchange should be agreed upon, and the reciprocity principle should apply. The format and language should be agreed upon.

Figure 2: Right-of-access model



Advantages

This model offers an easy solution, nearly readily available, which would not require huge investments and costs to build structures which, at this point in time, would be difficult to know their level of future use. Likewise, in its simplest form, there should not be a need to set up complex connection devices between potential creditors and credit registers.

In addition, there is no need for the foreign bank to separately obtain the consent of borrowers, which is implicit. The borrower does not have to physically withdraw the report. (Yet for transparency and quality reasons a copy may be easily be delivered to the borrower as well.) For this reason, the borrower cannot manipulate it. The data will be up-to-date.

Identification of the borrower/consumer is also less of a problem since the request for credit data is filled by a borrower of the same nationality as the credit register.

Disadvantages

The provision of the credit data to the creditor should be subject to a fee (whilst the borrower access to his/her data may be free of charge in some Member States).

Moreover, a verification procedure may need to be established between the borrower and the credit register which ensures that only the borrower can initiate forwarding his/her credit report to the creditor to guarantee privacy and avoid misuse. In addition, as for the portability model, the credit history of the borrower could be incomplete in case there is no reporting back from the creditor to any CR (whether domestic or foreign).

Furthermore, the non-contemporaneous nature of the request and the report delivery may slow down the credit granting process. In many cases, it would end up being a manual procedure (e.g. by mail). There is also the danger that the information would not arrive to the right destination.

4.1.5. Pan-European credit register

EGCH experts have also reflected on the option of setting up a single pan-European credit register to facilitate the cross-border access to credit data. The EGCH considers that at least for the foreseeable future, this would not be a realistic option²⁸. Such a system would require mandatory regulations and would have a heavy impact on the creditors. It would not be proportionate to the current level of demand for cross-border credit data exchange, as creditors would also have to change their procedures, processes and IT system, which would be time-consuming and costly. Some experts also expressed serious concerns regarding the level of consumer data protection under such a scenario.

EGCH recommendations

R.1 The EGCH recommends that a single pan-European retail credit register is not set up. It does not seem to be a realistic option and effective solution, at least for the foreseeable future.

R.2 The EGCH recommends that creditors be given free choice between all access models available to them, depending on the business case and having regard to data protection rules. The EGCH considers that the indirect access model may be the most suitable, as a first step in generating a cross-border market.

²⁸ The situation could be appreciated differently when dealing with corporate credit. In that case, authorities and several experts in charge of the stability financial system currently recommend the setting up of a global credit register to compile major interbank and specific client exposures. This will be one of the tools for a global monitoring by the supervisors of major credit risks in the financial system.

4.2. Legal and regulatory conditions for accessing credit data

ACCIS members cite the following principal limits to database access:

- Legislation 36 %
- Principles of reciprocity 32 %
- Other (e.g. codes of conduct) 23 %
- Mandatory bureau check before lending 8 %

The legal framework to access to credit data – both from the data user (creditor) and the data subject (borrower) perspective- needs to be examined in order to determine which are the legal requirements for cross-border exchange of data. The most frequently quoted legal issues are the banking secrecy and the data protection regulation. Other aspects such as regulation regarding authorised actors and purposes for exchanging data have to be evaluated as well.

Experts have also identified anti-money laundering rules, which oblige institutions to verify the customer's identity. Different approaches have been however taken at national level when implementing the Money Laundering Directive 2005/60/EC. As a result, in some Member States, it may not be possible for borrowers to obtain a loan without having to physically present themselves to the lending institution.

4.2.1. Banking secrecy

In a common general understanding Banking secrecy is a legal principle under which banks are obliged to keep confidential, and thus protect, personal information about their customers and their transactions. Thus, banking secrecy rules could forbid the transferral of data to a credit register in another EU Member State. It is important to note that not all creditors are impacted by banking secrecy regulations because parts of them, i.e. the non-banks, are not subject to such regulations in a number of countries.

Banking secrecy regulation as such does not appear to be a real barrier in the cross-border exchange of credit data. In the majority of Member States, the prior consent of the borrower or a specific law lifts any banking secrecy rules to enable credit data sharing. There are, however, countries like Poland where banking secrecy regulation limits both domestic and cross-border credit data sharing to some types of creditors.

Some experts stress the fact that the consent of the borrower is a kind of 'by-pass' formula and therefore should be replaced by regulation which precisely allows cross-border credit data sharing.

4.2.2. Data protection

Data protection rules are directly applicable to the processing of credit data by credit registers. There are however differences between Member States with regard to the interpretation, at national level, of the Data Protection Directive, notably in relation to the legitimacy, purpose limitation, necessity and the proportionality principles. Once combined and applied to credit registers, they fix three main limitations to the processing of personal data:

- the balance between the legitimate interest of the data controller and the rights of the data subject;
- the 'relevant, adequate, and non-excessive' nature of the data processed in relation to the 'determined, explicit and legitimate' purpose for which it is collected and/or processed;
- the fact that data should be kept only as long as it is necessary.

In some countries, like the UK for example, the balance has turned more in favour of the legitimate interests of the creditors, while in other countries, notably in France and Belgium, the data protection considerations have led to identification of strict limits to the type of data that could be processed and the legitimate purposes (e.g. prevention of over-indebtedness). In addition, strong statutory guarantees in order to ensure data protection have been established. As a result, what is allowed in one Member State regarding credit data exchange may be forbidden in another one. This makes cross-border data exchange more difficult.

The various national approaches to data protection are also reflected in differences in the authorised purposes and the authorised actors for exchanging credit data, which can be an issue when sharing credit data cross-border. Therefore, it is strongly recommended that the Commission organise discussions with data protection authorities in order to elaborate a common set of practices and a common interpretation of the Data Protection Directive across the EU, with regards to the processing of credit data both nationally and cross-border.

4.2.3. *Authorised purposes*

The main objective for creditors accessing credit data is to obtain information to enable the credit risk assessment of new credit applications and to facilitate the monitoring of existing credits. In some countries, additional authorised purposes may also include:

- fraud prevention;
- supervision of credit institutions;
- Basel II compliance;
- authentication / age verification
- other related credit risk / affordability uses (e.g. preventing over-indebtedness);
- other purposes legally recognized.

The discussion on the opportunity or pertinence to have authorised purposes other than to undertake a credit assessment is outside the scope of this report. Theoretically, however, for cross-border data exchange, different purposes in different countries should not be an issue. Two approaches are possible:

The first one is to limit the authorised purpose to the lowest common denominator between Member States, for example, credit risk assessment. Practically, this raises the question of how to control the use of the data by the foreign creditors. There are measures already in place today, at least in some Member States, that ensure that the data is used only for an authorised purpose, e.g. data is only provided to a creditor on the basis of a justified request. However, additional supervisory measures may probably have to be implemented in a cross-border context in order to ensure compliance with the authorised purposes in the countries where the data comes from.

The second approach would be not to limit the use of foreign credit data to a common authorised purpose (such as the lowest common denominator). This can be illustrated by the following example. A creditor from country A wants to conclude a cross-border (credit) contract with a borrower in country B. To do so, the creditor should be granted access to the credit register in country B for a legitimate purpose in accordance with the legal regime in country B, even though this would not be permitted in country A. There is no reason why the creditor from country A should not be granted access for that purpose, if this is legally permitted in country B and/or consented to by the borrower. In the event, the creditor from country A should not be granted access for that purpose, they would have a competitive disadvantage compared with domestic creditors in country B. It could also disadvantage creditors in country B that cannot compete with creditors in country A if they want to lend to a borrower in country A.

The situation might be judged differently if the (credit) contract were to be concluded in country A. The use of information from the credit register in country B for purposes not authorised in country A could still be possible based on the consent of the borrower, who has authorised the use of his/her data stored in the credit register in country B. The use of consent should in any case be in line with the applicable data protection legislation. As a rule, a creditor will only be able to request and use credit data from a foreign credit register for the purposes authorised for the foreign credit register providing the data.

4.2.4. *Authorised actors*

Since the most common purpose of processing credit data is credit risk management, the actors authorised to access credit registers generally come from the credit industry (e.g. banks, financial institutions, credit cooperatives, credit card issuers, insurance companies, other creditors).

In a minority of Member States however, the access to the credit registers is wider than just creditors, and is open to non-creditors, such as factoring companies, telecommunication providers, debt collection agencies, retailers, mail order companies, etc (whose interest in accessing the data is regarded as legitimate under national law). However, this does not necessarily imply that within the credit register there is full sharing of information between data users from different economic sectors. For example, in the UK, some utilities companies and mobile telephone companies supply and have access to the credit data, but in Germany, the credit register limits the sharing of information with non-creditors to negative information only. In some other Member States, such as Poland, the access is narrower and limited to banks, credit unions, and financial institutions which are financially dependant upon banks. The limitation could also come from the type of credit register. Usually, PCRs limit the access to their data to credit and other financial institutions engaged in lending.

In the case of cross-border data exchange, different authorised actors could be seen as an issue. For instance, in country A only banks could access the credit registers and in country B access to the credit register is granted to all types of creditors.

One option would be to limit cross-border credit data exchange to the common authorised actors in both countries (i.e. only banks). This would, however, modify the level playing field in country B because local banks will have access to more credit data on customers from country A than local non-banks. This also raises the question on how to control who uses the credit data from country B. In this context, Data Protection Authorities play an important role.

A second option would be to allow banks and non-banks from country B to use credit data from country A (as far as this complies with the regulations in country B). This will then affect the competition between non-banks from country A and from country B.

A third option would be to harmonise the access requirements by allowing or forbidding the access to data by non-banks in both countries.

At this point, it should be noted that Article 9(1) of the Consumer Credit Directive states that: "Each Member State shall in the case of cross-border credit ensure access for creditors from other Member States to databases used in that Member State for assessing the creditworthiness of consumers. The conditions for access shall be non-discriminatory."

Some EGCH experts believe that, irrespective of the authorised actors in each country, in accordance with the above mentioned provision of the Consumer Credit Directive, the cross-border data access should be limited to creditors. The Consumer Credit Directive focuses on credit agreements, fixing their essential terms and conditions (e.g. interest rates, total amount granted, duration). In accordance with Article 9 of the Consumer Credit Directive, accessing relevant databases is instrumental to 'assessing the creditworthiness of consumers' before concluding a credit agreement. Subjects other than creditors (for example telecom companies) are unlikely to enter into credit agreements as defined by the Consumer Credit Directive, since their contracts generally lack the above-mentioned essential elements. Thus, even if the Consumer Credit Directive does not explicitly exclude utilities providers from the definition of creditors, it contains many elements which clearly indicate that they are not to be considered 'creditors' in the sense adopted by the Directive and should therefore be excluded from cross-border data access.

In the views of some EGCH experts, in line with the CCD, 'non-discriminatory' access means that creditors from foreign Member States must have access to the local credit register under the same conditions as local creditors. The EGCH however notes that the Consumer Credit Directive applies only to certain types of credit and believes that the principle of non-discriminatory access to databases should be also extended to creditors providing mortgage credit. Some experts believe that it should also be extended to creditors providing consumer credit not covered by the Consumer Credit Directive.

4.2.5. Other requirements

Other legal requirements such as the legal obligation to hold a banking licence or to have a physical presence in the country of the credit register could be seen as an obstacle for cross-border credit data exchange.

EGCH recommendations

R.3: The EGCH recommends that national Data Protection Authorities work towards more convergence or harmonisation in the interpretation of data protection rules and in their practices in order to facilitate the process of cross-border credit data exchange.

R.4: The EGCH recommends that the Commission organises a roundtable discussion on credit data, identity theft and anti-money-laundering rules with the relevant national authorities.

R.5: The EGCH recommends that, in case of national differences regarding authorized purposes or actors, the use of the data should also comply with the national rules of the country where the data was collected.

R.6: The EGCH recommends that compliance with the non-discriminatory access to databases requirement in Article 9(1) of the Consumer Credit Directive should be considered, in particular, as providing foreign creditors access at the same level and terms as local creditors, i.e. with no additional barriers or privileges, and respecting the principle of reciprocity, without prejudice to data protection rules, as stated in Article 9(4) of the Consumer Credit Directive.

R.7: To promote greater cross-border responsible lending, the EGCH recommends that access to data should be possible, in line with national authorised purposes, throughout the credit lifecycle and after the expiry of the credit agreement, in particular, for the purpose of risk assessment, account management, collections, recoveries, including fraud prevention and anti-money laundering checks.

R.8: The EGCH recommends that the provisions in the Consumer Credit Directive regarding access to databases should be extended to cover legitimate creditors providing mortgage credit. In the view of some EGCH experts, it should also be extended to creditors providing consumer credit not currently covered by the Consumer Credit Directive.

4.3. Commercial practices regarding access to data

The *Report on the retail banking sector inquiry* published in January 2007 by the Commission (hereafter the sector inquiry) quotes unfair or discriminatory access conditions as potential competition issues. The sector enquiry highlights in particular membership criteria and the fee structure for membership and use of the credit register.

4.3.1. Membership criteria

According to the sector enquiry, among the different membership criteria, two of them – requirement of a banking licence and/or requirement of a physical presence of the creditor in the country of the credit register – applied by some credit registers might be seen as restricting data access. It should be noted that the four credit registers pointed out in the sector enquiry are PCRs from central banks that are set up for bank supervision purposes. The limitation of their membership is imposed by law and not by commercial or private practices. In those countries, with the exception of Latvia, private CBs also operate and do not apply the 'national presence' criteria.

4.3.2. *Joining/consultation fee*

The sector inquiry recognises that the vast majority of credit registers in Europe charge fees to their members and that fee structures and levels vary greatly across Member States. It stresses that when applicable, high joining fees, discriminatory volume-based transaction fees or high fixed transaction fees for access to the register could discourage membership or full use of the data, creating a potential competitive issue among creditors.

4.3.3. *Other contractual conditions*

Contractual conditions vary significantly between credit registers and are confidential between the register and the client. Contracts typically cover:

- data ownership between the register and the data supplying client (i.e. the creditor);
- how the register can use the data (on top of data protection considerations around how the consumer's data can be processed);
- to whom the data can be disclosed and on what terms and conditions; and
- ownership and subsequent uses of derivative output (i.e. the 'intellectual property' rights of intelligence derived from the data).

Whatever the contractual conditions of any credit register, they have to comply with the non discriminatory access principle stated in Article 9(1) of the Consumer Credit Directive meaning that foreign creditor's access to the credit register must be handled the same way than local creditors (same rights, same obligations). However, this requirement can impose a disproportionate burden to foreign creditors, when the rules on reciprocity of a national credit register require participating creditors to report data about all their clients.

4.4. Reciprocity

4.4.1. *Reciprocity justification*

Reciprocity is a key principle for credit data sharing. Creditors generate information on borrowers' credit behaviour which is useful to assess their creditworthiness. This private information grants an information monopoly position to the creditor that generated it. A creditor could accept sharing its information and break its information monopoly if it gains access to the information of other creditors and, thus, be able to perform a better credit risk assessment and thus use his resources more efficiently.

The reciprocity principle is enforced in credit registers through provisions that ensure that access to credit data is granted only to those who contribute with their information. In spite of their different features, all credit reporting systems now operating in the EU respect this principle. As already clarified in Chapter 3, in some cases creditors are legally obliged to share information on credit relationships independently of their specific interest in taking part in a credit reporting system or not; in other cases creditors commit to private agreements to transmit their information in order to obtain the information of others.

4.4.2. *Reciprocity in cross-border data exchange*

In a cross-border context, the principle of reciprocity in its simplest form is fulfilled when the credit registers in country A and in country B do exchange information in both ways.

In the case of cross-border access to credit data it seems crucial to keep the reciprocity requirement in place. In other words, each creditor who seeks access to foreign credit data must contribute to create and keep accurate and up-to-date the information from which creditors from other Member States will also be able to benefit. This would ensure that the information is shared with all other participants and it would prevent creditors who were unwilling to hand over their information from having access to information provided by others.

In this context, it is also necessary to ensure a certain level of standardisation in the information each creditor reports and receives. Otherwise, if the creditor has access to another country's credit register which collects, for example, both positive and negative information, while its country's credit reporting system is limited to negative information, this creditor would enjoy a competitive advantage. Since it would be costly to harmonise the different systems, one solution could be setting a minimum level of common information on a bilateral basis that is legally accessible cross-border and that each reporting system should guarantee.

Another approach to the reciprocity requirement is given by the code of conduct on *Information sharing – principles of reciprocity*, drafted by the UK credit industry. It defines a principle of proportionate reciprocity. In summary, when a creditor gets access to a certain type of data about a borrower in a credit register, it has the obligation to update that borrower record with the same type of data, should the credit be approved. Moreover, there is no pre-requirement to load into the credit register credits already on the creditors' book or those sanctioned without reference to the borrowers' record in the credit register. (However, creditors which do not share data on existing credits cannot access the shared data to manage those credits.)

The EGCH believes that, in a cross-border context, the reciprocity principle implies that foreign creditors should be able to access the same type of information as they do provide. This means that creditors in negative data only countries will have only access to the negative data in full data CR if that is the only data they provide.

Ensuring a high level of market coverage (in terms of reporting institutions, borrowers covered and of types of loans registered) is also necessary in order to guarantee reciprocity between Member States. Unfair conditions in cross-border data access would arise if the credit register in a certain Member State collects data on all the credits granted to a borrower (since all creditors are legally obliged to report them to the credit register), while in another country this universal coverage is not guaranteed because there is no such legal obligation and the credit register membership on a contractual basis is not significant.

EGCH recommendations

R.9: The EGCH recommends that in case of cross-border data exchanges, the reciprocity principle must be preserved as a key requirement. It should be applied in a way that it also ensures non-discriminatory access to and exchange of credit data.

R.10: Some EGCH experts recommend that a foreign creditor should be able to access the borrower's home credit register only if the creditor participates in its own national CR.

R.11: The EGCH recommends reciprocity requirements to be proportionate. Thus, a foreign creditor accessing a borrower's data in a credit register should only report back data on that particular borrower.

R.12: The EGCH recommends the reciprocity principle to be interpreted as implying that creditors, when accessing a foreign credit register, would obtain the same type of data as that they provide.

4.5. Access by the data subject

The collection of personal data in credit registers could considerably affect the life of consumers. The data collected in a credit register or communicated to the creditor by the borrower him/herself will influence whether the credit will be granted to him/her and, equally important, at what price and conditions it will be granted. The data may also influence whether and at what conditions the consumer can access other banking services, such as bank accounts (for example if an overdraft facility is attached to it). In Member States where non-creditors are authorised actors of the credit register, the range of issues at stake for the consumer could extend into an important part of his economic life (i.e. mobile phone contracts, online shopping, renting an apartment,...). Finally, wrong and/or missing data in a credit register can lead to considerable harm for the consumer. It is thus essential for him/her to know about the inclusion of his/her personal data into a credit register and to have access to it.

4.5.1. Transparency

According to some experts, the importance of transparency goes beyond the protection of consumer's rights as a data subject. The consumer needs to be informed about the exact purpose for which his/her data is being processed, so that s/he can estimate which ones of his/her economic decisions are affected by the data recorded in the database. It is also important for the consumer to be aware of how the decisions s/he takes affect the content of his/her personal data in the future.

To sum up, the consumer should be in a position to give a free and well-informed consent. S/he also needs to know:

- about the inclusion of his/her data in a credit register, and in which one;
- the exact purpose for which the data is being gathered;
- who has access to this data and under which conditions;
- the categories of data gathered;
- how long the data will be stored;
- whether the data is used for scoring and what scoring is;
- how to exercise his/her rights of access, rectification, erasure or blocking to/of his/her own data.

These consumers' rights are included in a more general form in the Data Protection Directive, including their right to get access to all information held on them within a specified timescale. The Data Protection Directive further provides consumers with the rights of rectification or erasure of that data. Other rights the consumer enjoys in some countries include the right to know who has accessed their data and how data is stored and updated (see Annex 5).

Consumers may be concerned that they do not have sufficient opportunity to comment on their credit data. The creditor should consider all relevant information for responsible lending. Consumers who contest or wish to provide explanations have the facility:

- In some markets (e.g. Belgium, Ireland and UK) to have a narrative put onto their credit report explaining an item of data – for example, that arrears may have been caused by temporary unemployment, as well as to mark when a data item is under investigation or in dispute.
- In all markets to be referred to the source of the contested data so that the reporting entity can change the data if appropriate and report such changed data to the credit register.

4.5.2. *Procedures to access own data*

European credit registers are legally obliged to provide, within a certain deadline²⁹, data subjects with their credit report upon request. PCRs grant consumers free access to their data. Some CBs impose an access charge (see Table 4).

²⁹ 45 days.

Table 4: Access by data subjects to their data

Member State	Access free of charge?	Comment
Austria	yes	
Belgium	yes	
Bulgaria	yes	Free – once a year
Cyprus	n.d.	
Czech Republic	no	
Denmark	yes	
Estonia	n.d.	
Finland	yes	Free – once a year
France	yes	
Germany	yes	Depending on the access channel (free access at 14 Schufa branches)
Greece	yes	
Hungary	yes	Free – once a year
Ireland	no	EUR 6
Italy	yes	
Latvia	yes	
Lithuania	n.d.	
Luxembourg	no credit register	
Malta	n.d.	
Netherlands	no	EUR 4,50 per report
Poland	yes	Free – once every 6 months
Portugal	yes	
Romania	yes	
Slovakia	yes	Free – once a year
Slovenia	yes	
Spain	yes	
Sweden	yes	Free – once a year
United Kingdom	no	GBP 2 (but waived for financially stressed individuals)

Note: n.d. = no data

Source: ACCIS members Survey – 2007; Commission survey amongst Member States – 2007.

In all Member States, the consumer may at least address their request in writing³⁰ to the credit registers. In France, where only oral updates were provided to the consumer, a recent change enables consumers to obtain written information on the existence of a file. To avoid misuse³¹ of the consumer's personal credit report, the information is delivered in two steps: the consumer is informed in a first letter whether s/he is filed in the database, and a second letter will be sent to confirm this. It is recognised that the risk exists that non-authorized actors may gain indirect access to the credit register by requiring the consumer to provide such a report before selling them a good or a service. In some Member States any such pre-contractual obligations are considered to be illegal.

³⁰ Post, fax, email.

³¹ 'Détournement de finalité'.

The issue of legitimacy of access to information should also be carefully addressed, meaning that information may only be provided to the consumer him/herself or to a duly authorised representative. Some credit registers offer consumers other channels to access their data, for instance, through the branches of banks (Netherlands), via Internet (Belgium, Germany, and the UK) or contacting directly the credit register (Italy, Belgium). The frequency of provision varies from once a year to as many credit reports in a year as the consumer wishes. Generally, in cases where a nominal fee can be charged to a consumer there are no frequency limits.

On the one hand, some EGCH experts consider that free access to credit registers should be enabled whenever the consumer is taking a decision that will be affected by the content of the data kept in the database. In addition, the consumer should be able to check for free who, and with which purpose, has accessed his/her data. They argue that fees, where they exist, discourage consumers from using their right to access their data. Thus, charging consumers can have a negative impact on data quality (reduced levels of checking) and may lead to consumer harm.

On the other hand, other EGCH experts disagree and believe it is appropriate for the consumer to contribute towards the cost of their access. A fee can also hinder inappropriate behaviour; creditors may use consumers' 'free' copy to avoid legitimate commercial access costs. In this way, non-authorised actors may gain access to the consumers' information.

From the point of view of these experts, offering free access to credit registers can be seen as putting a burden on the credit registers. This might influence the channel offered to consumers to access their data (e.g. access via local offices or a call-centre may disappear).

At a cross-border level, the EGCH believes that access conditions for the consumer should be harmonised to a certain degree. The real challenge is, however, providing the consumers with the possibility to check the content and correctness of their data abroad and initiate changes if needed.

The general conclusion of the EGCH is that the Data Protection Directive and respective domestic regulations, if properly enforced, ensure the consumer's right to access his/her data in the credit register.

EGCH recommendations

R.13: In accordance with Article 12 of the Data Protection Directive most experts in the EGCH consider that an appropriate contribution by the consumer should be requested for database access. However, some experts in the EGCH consider that, in order to ensure better quality data, access upon request should be unlimited and free of charge, at least once a year.

R.14: The EGCH also recommends action to ensure a certain level of convergence, at cross-border level, regarding consumers' access conditions.

5. DATA CONTENT

5.1. Introduction

This chapter provides an overview of the types of data in use in the EU. It also describes other related services in use today including credit scoring and fraud prevention tools. A description of the processes which ensure data accuracy is also provided together with a description of certain limitations of the current infrastructure, which may cause practical problems in identification of the consumer across borders. Finally, the perspective of the consumer is examined, in particular, consent and when it is required, the method of giving such consent and remedies available in each market if there is a complaint or data is incorrect.

5.2. What data is needed?

Lenders need a variety of data in order to assess the creditworthiness of the potential borrower. The data taken into consideration for credit granting and credit account management purposes could be categorised as follows:

- Identity data coming from different sources, which can be matched and cross-checked in order to prevent borrower identification errors;
- Credit history data, which is the collection of current and historic credit accounts and facilities associated with the consumer. It aims to give a complete picture to creditors on the credit a consumer holds or held and their payment behaviour related to such accounts;
- Credit application data (e.g. income, wealth, guarantees offered), which is collected by creditors and can be used to develop application scoring models. It is generally the source of the data for the enquiry to a credit register. For negative only systems, the answer given is sometimes binary: the borrower is either filed or not (e.g. France);
- Public data, such as court judgment information as well as information on default or bankruptcy, is used, where allowed, in considering an application for credit. Other types of public data in use are, for example, the electoral roll in the absence of a unified identification system (e.g. in the UK) and telephone files for the detection and prevention of fraudulent credit applications.

While the data used by creditors is generally the same across the EU, the main difference between markets is from where the data is originated. This may come from:

- the borrower, via the credit application form or from another documentation provided during the interview (e.g. employer pay slips etc.);
- the lender's own databases if the borrower is already a client;
- credit registers, if available;
- public/official registers (e.g. those collecting information on bankruptcies or protested bills/cheques).

Additionally, automated systems are in use in a majority of cases, which help utilise the information available in an efficient and consistent manner. Some of these tools are:

- Application processing systems for automating the workflow and applying decisions consistently and so that they can be managed and audited correctly;
- Application scoring and scoring from credit registers to measure the probability of default/ability to repay on a consistent basis;
- Customer management systems for applying rules and managing limits on established accounts like credit/debit cards on a consistent and fair basis based upon risk.

There is a certain agreement among creditors that the more data that is available on a potential borrower the better it is to evaluate his/her credit risk. However, existing legislation sets a balance in order to ensure that consumers' fundamental rights are respected. Thus, the Data Protection Directive establishes that data must be adequate, relevant and not excessive in relation to the purposes for which it is collected. The Directive also establishes some safeguards regarding decisions based on automated processing of data.

5.3. Data stored by credit registers

Even if the data needed in decisions is generally the same, creditors systems and processes are unique to each market. These are dependent upon a number of factors, including the legal framework, national infrastructure or cultural preferences. All these influence the choice of the source/s of the information used in the decision, as well as the amount and type of information that can be obtained from them.

In the majority of the EU Member States, credit reporting systems exist where a comprehensive set of data (positive, negative and historical data) is collected and processed by credit registers. In a few others, such as France, the role of credit register/s is more limited due to, on one hand, privacy and other consumer protection considerations and, on the other, to the objectives pursued by the credit register³². As a result, the data collected and stored by credit registers differs across the EU. Annex 3 gives an overview of the types of data stored in different EU credit registers.

5.3.1. Types of data stored

Credit registers collect and process two types of data: negative and positive information. Negative information is data about defaults on payments, delays, delinquencies, and bankruptcies. Positive information refers to data on the borrower's credit commitments, payments and other details which do not constitute a default or late payment. (See the Glossary annexed to this Report.)

³² In France, the Conseil d'Etat, the highest administrative jurisdiction, admits the sharing or centralisation of personal data only within the same sector. Furthermore, the French civil society argues that the credit bureau model organizes de facto the full transparency of individuals, leading to banking and social exclusion, and seems, in this view, hardly compatible with principles stated in the Directive 95/46/EC related to data protection, namely proportionality. This is particularly relevant when access to the shared data is granted not only to lenders, but to any 'interested' party, e.g. landlords, employers.

While all credit registers typically provide negative information, positive information is less frequently processed, particularly by public registers³³. As shown in Table 4, at the EU level, a majority of credit registers provide both negative and positive information. However, the possibility to collect and distribute positive data does not exist in certain Member States (e.g. Denmark, Finland, France and Malta).

As shown in Annex 3, the content of the negative and positive information stored in credit registers can also vary considerably. However, some similarities can be observed. With regard to negative data, credit registers in a majority of Member States (15 of them) collect data on bankruptcy and insolvency, as well as on write offs. Information on the regularisation of debts (15 Member States) and the termination of the contract (11 Member States) is also often registered. Regarding positive data, the credit amount and currency is stored by credit registers in 16 and 15 Member States respectively. Also in a majority of cases (15 Member States) the maturity of the credit is registered.

The debate on the merits of extending credit registers' coverage to positive information has been a long one; with many strong and valid arguments both in favour and against. Supporters consider positive information as an important tool for risk assessment³⁴ and over-indebtedness prevention and, thus, helps to ensure compliance with the 'responsible lending' requirement laid down in the EU Consumer Credit Directive³⁵. Although a system using also positive information involves higher data processing and storage costs, supporters regard these costs as small from a micro- and macroeconomic perspective when set against the economic benefits derived from the higher quality of information. These benefits are said to include: lower loan losses and enhanced loan monitoring (including the possibility to take preventive action), the possibility for certain borrowers to access credit, easier entry of new competitors, lower prices for other financial products³⁶, facilitated securitisation of loan receivables and increased consumer mobility.

For its detractors, the costs related to the implementation of positive files should not need to be neglected, as these would outweigh part of the anticipated benefits. The risks in relation to the loss of personal privacy, as well as the use of that information, including potential misuse of personal data, are also of particular concern for its critics³⁷. They also argue that the existence of positive files may have adverse effects, such as discriminating effects or even the financial exclusion of borrowers with no credit data history. Finally, they contest the impact of positive information on bank competition, credit development or on the reduction of over-indebtedness³⁸.

³³ According to a recent worldwide survey, 71.8 % of credit bureaus and 59.5 % of public credit registers provide both positive and negative information, *Doing Business*, 18 March 2008, The World Bank Group.

³⁴ Credit assessment tools such as scoring models are said to be more effective the more relevant information is available about the borrower.

³⁵ Positive and negative historical data are also needed by banks in order to comply with some of the requirements of the Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, and the Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions.

³⁶ Since information sharing weakens the customer binding relationship with his/her bank, this needs to offer more competitive services and products.

³⁷ CNIL, *Les problèmes posés par les fichiers regroupant des informations sur la situation financière des individus au regard de la loi du 6 janvier 1978*, January 2005.

³⁸ The latter being most often the result of unfortunate life events (divorce, illness, job loss) than of credit accumulation.

Given that economic literature offers contradictory (and often not definitive) views and that the European experience shows that both approaches can work effectively, the EGCH has not found a consensus on the need or not to recommend one or the other approach for cross-border exchanges. While many EGCH experts believe that full data model (i.e. negative and positive data) is superior, some EGCH experts strongly support limiting cross-border exchanges to negative-only data in order to preserve consumer protection.

The EGCH acknowledges that it is unlikely that data content would change rapidly within national credit registers. Some experts remain concerned about the purpose, amount, accuracy and relevance of the data stored in credit registers. They argue that credit data should be limited to what is allowed by local regulation and it should not in any case be excessive in relation to its purpose. Furthermore, in those countries where there is very comprehensive credit data available, harmonised models may lead to a reduction in availability of such data. Changes in the availability of data risks then to prove destabilising for the credit market, especially at times of economic stress (such as the current credit crisis) with potential negative impact on borrowers. If cross-border solutions would be found, it will therefore be necessary to find a balance between these interests.

5.3.2. Non-credit data

Some EGCH experts agree that when assessing creditworthiness and indebtedness, the use of as much relevant data as possible is an advantage (provided it is correct). Predictive data not only stems from the financial sector but can also originate from other sectors in the market, and their analysis and know-how. The non-respect of other contractual agreements (e.g. with merchants, utilities providers, landlords, etc.) might be used as an indicator of loan servicing or default problems later on. This is explained by the fact that, before suspending payment of a loan instalment, consumers who have difficulty paying debts tend to first no longer meet payment obligations under contracts with softer penalties.

In most European markets today, however, some types of non-credit information cannot be processed. As far as this data would constitute infringements to the legislation, they might be considered as judicial data in the sense of some national laws implementing the Data Protection Directive. Judicial data is strictly protected and cannot, according to such laws, be processed except e.g. by the data controller user in the course of his/her own litigation. Centralisation of such data or its processing by a third party (creditor) would therefore not be admissible. In addition, data collected for a specific purpose (e.g. telecommunication services) must be, according to the Data Protection Directive, processed for that specific purpose and cannot automatically be transferred to another data controller with an incompatible purpose.

5.3.3. Fraud data

Data about fraud is often stored in central databases so that a creditor may check to see if a credit application may be related to a past fraud. Creditors store information about instances of fraud within their own business and employ experts and tools to detect and prevent fraudulent new credits and fraud activity in existing accounts. In some countries, data for fraud detection, especially identity theft, are directly provided by local public authorities, usually through credit registers or other companies that provide this service to creditors.

Some credit registers check the enquiry information from a creditor for consistency with reference information like telephone files, past credit applications, identity and address information. This is typically carried out with the consent of the borrower (agreed on the credit application form). Further processing may be carried out to flag applications which show inconsistencies for further investigation by the creditor with the credit applicant. A check by the creditor may also be carried out to determine if the applicant has previously committed a fraud.

5.3.4. The use of scores in this context

Scores are used by many creditors as an extra decision-making criterion. In most European countries, credit scoring is used in the credit granting and account management processes.

Scores are often provided by registers but also creditors concurrently develop their own scoring models. Where credit registers do not provide scores it is normally because the positive data or the length of data needed to develop a predictive score is not available. The score is only as strong as the data available (and the technical knowledge) allow, as long as the available data is accurate.

The predictive value of credit scores is generally greater than that of credit histories alone. However, a credit score acquires a higher relevance, and thus predictive value, when applied to an identified and homogeneous population of borrowers with regard to a specific product. Mortgage credit and consumer credit use different scoring tables and weights. This is also true for card credit or other affected credit. Broad based scores from credit registers are often used in conjunction with internal or external product specific scores to optimally assess risk.

Thus, in order to sharpen the predictive value of the score and respond to the great variety of situations that need to be scored, there is a trend to collect more and more data. While this is understandable from the point of view the credit registers and credit scoring industry, since it enlarges its commercial opportunities, the broadening of the purpose of credit registers in order to meet all the needs and existing situations within Member States does not seem realistic.

Scores and automated decisions in general, however, may raise a number of issues from the consumer protection point of view. The Data Protection Directive establishes that consumers have the right not to be ultimately subject to automated decisions. Also, according to the Data Protection Directive, an automated evaluation of the creditworthiness of a data subject can only take place if specific safeguards are put in place. Some EGCH experts believe that decisions based on the borrower's acquaintance outperform the assessment provided by computerised systems, which can lead to mistakes if not properly implemented and monitored. Conversely, creditors from a range of countries regularly report significant improvements in the quality of decisions when scoring is used.

EGCH Recommendations

R.15: The EGCH recommends that, where provisions for comments on credit reports are in place, consumers are clearly informed on how to make such comments. Where such facilities are not available (for example by law), some EGCH experts recommend that clear guidelines be provided.

5.4. Ensuring the quality of data

Ensuring data quality is not only an obligation resulting from data protection rules, but a must in order to effectively assess credit risk. As such, the systems in use today and for the future must maintain a high level of quality of data. Many factors play a key role in this respect:

- Controls operated by the creditor, when collecting the data (at application), prior to registering data in its own systems and those of external stakeholders;
- Quality of the credit register systems to monitor and ensure high data integrity and quality when loading data from creditors both at enquiry level and account contribution levels;
- (On-line) updating mechanisms to keep the data up to date which are adhered to by creditors and credit registers;
- Enforcement and respect of regulation/law so that all data which is processed on the basis of the borrower's consent and within the laws and regulations of the relevant country;
- The availability of the consumer to access, correct and ask for the erasure/blocking of his/her data.
- The borrower's provision of accurate information when applying for credit;
- On-site inspections (PCRs in some cases).

Some EGCH members have pointed out that such factors are inherent to credit registers operated by central banks, since these institutions are empowered with supervisory powers. The penalties for non-compliance are varied but serious and can result in the suspension of operations and/or serious fines.

If a cross-border system is to receive support from all stakeholders including those representing the interests of consumers, it will be a prerequisite to have a harmonised and consistent form of policing, enforcement and recourse across the EU for cross-border data flows. Such a structure should also ensure that consumers have sufficient relevant information to exercise their rights under their country of residence laws. It should also ensure that effective redress mechanisms are in place.

When it comes to cross-border exchange of credit data, it would be also necessary to develop some form of cooperation between the actors responsible for national data quality control mechanisms. At the moment, national DPAs' controls are not harmonized across Europe. Therefore, national CRs might be held to different quality standards in the different Member States. This can impact on data quality and the provision of financial services across borders. A more close cooperation among DPAs for monitoring and supervising quality on cross-border data flows seems necessary. This cooperation could also serve to the purpose of harmonising criteria on the collection of data and the interpretation of basic concepts of these data.

In addition, it has been suggested by EGCH experts that some of the key requirements for a credit reporting system are:

- Auditable and traceable data flows throughout systems;
- Privacy and personal data protection should be built in to reduce the possibility of the loss, misuse or theft of personal data;
- Clearly accountable for the data throughout the process with clear responsibility at every stage in the cycle and throughout the chain;
- Integrity of data should be preserved so that creditors and consumers alike can be sure that a fair and proper decision process was used and that the best decision was made and can be understood;
- a sound data security scheme.

5.4.1. *Mechanisms to avoid inaccurate and/or out-of-date data*

Creditors and credit registers take precautions to ensure that a high quality of data is maintained. The measures typically include:

- Data validation upon entry and logic to ensure accurate input of data (e.g. does the age correspond to the date of birth compared to current date, is the date valid...);
- Data completeness check (most modern application processing systems will not process the data until all of the relevant information passes validation checks);
- Data integrity checks of account files submitted by creditors to credit registers to be stored so that no errors have been made by systems, data is complete, a change has not affected the data;
- Procedures to ensure that data loaded into the database has been loaded correctly and the data can be correctly associated with a consumer;
- Data validation of the enquiry from the creditor to the credit register to ensure that correct data will be processed and correct data returned;
- Inventories between CBs and creditors;
- Access by consumers to their files so that can be inspected and easily checked for errors.

5.4.2. *Measures to avoid interpretation mistakes*

Problems often occur when data has not been associated correctly because of identification problems or when data has been provided to the PCR or CB which is incorrect due to:

- Data entry by the creditor was incorrect or missing;
- Data provided by the consumer was incorrect or mistaken;
- Identification issues caused either a mismatch of personal data or the data was not associated at all due to such difficulties;
- There is a processing problem at the credit register;
- There is a processing problem at the creditor.

Mistakes can and do occur, mainly due to human errors therefore the correct checks, audit and procedures are required to be in place on a uniform basis across the EU in order to ensure high quality data.

In addition to human or technical errors, a further difficulty appears in relation to cross-border exchanges. Credit reports may vary significantly from one country to the other, not only due to differences in data content but also because some data definitions, such as that of default, differ between countries. In the framework of data exchanges among certain ACCIS members, working solutions are already in place to help creditors' understanding of foreign credit data. Another typical problem in a cross-border context relates to the risk of data duplication/overlapping, which may lead to an overestimation of the borrower's debt exposure.

Finally, as with all processes, during times of change such as the current credit crisis, all tools have to be even more regularly monitored and adjusted because the data upon which decision making tools were developed was historic. So whilst the data can be considered accurate from a historical perspective, in times of high financial stress, with rising unemployment and increasing risk of default or delinquency, interpretation of data must be adjusted to a more conservative level to help account for changed circumstances.

5.4.3. Data holder identification problems

An additional key issue for all credit registers is that of sufficient and unambiguous identification of the borrower so that credit histories can be properly associated with him/her.

Errors resulting from matching data to the wrong individual can have negative effects on consumers and cross-border data sharing. Different solutions exist in Member States in order to ensure data subject identification: most common denominators are the combination of name, first name, and date and place of birth. But even such a combination does not always ensure complete identification and may raise problems, for example for composed names entered in differently in the database ('Rey' instead of 'Del Rey', marriage name instead of birth name) or mistakes in translating foreign names ('Khalid' instead of 'Khaled'). In addition, the date of birth is not always certified, in particular for consumers originating from Asia and Africa. Further data is thus needed to ensure correct match.

In some markets, identity card systems and other unique identifiers unambiguously identify a consumer so that data may be associated with the consumer. In some Member States, credit registers may record the national social security number, but this is not always permitted by national laws (i.e. France). Where identification problems are dealt with by national credit registers, with mitigated success, the cross-border exchange of data adds new uncertainties due to diversity of identification systems.

The implications of identification problems in a cross-border context are:

- Creditors will have to spend additional time and resources on the process of granting credit to non-nationals compared to local borrowers;
- There is still room for error because there is no consistent indexing of data and such data is distributed across many databases;
- Consumers in some markets may raise concerns over incorrect matching of data due to the limitations of identity systems and the technologies.

The absence of a reliable Europe wide identification scheme means that any cross-border credit reporting system will remain imperfect and there is a probability that errors will occur when assembling data to make a credit decision. In order to ensure security of the data processing, a solution could rely on the portability of registration number in the credit register that would be communicated by the consumer when presenting a credit application. However, such a solution could be difficult to implement in practical terms.

Another option would be the introduction of a new standard agreed by all credit registers regardless of ownership such as a common identity format³⁹. This would be able to ensure not only that the enquiries are correctly made and consumers correctly identified, but also that, in the future, the entire credit histories from multiple markets could be associated with each other for creditors. This, however, would entail significant costs.

A functioning cross-border data exchange between credit registers is therefore essential, to build up confidence between creditor and borrower.

EGCH recommendations

R.16: The EGCH recommends that, where not yet in place, appropriate and efficient data quality control mechanisms are introduced. For cross-border data exchanges adequate co-operation should be in place between those mechanisms.

R.17: The EGCH recommends that the credit data industry develops practical solutions that would assist creditors and consumers in understanding foreign credit reports.

R.18: The EGCH recommends handling at EU level, in cooperation with national Data Protection Authorities, the problem of data holder's identification taking into account the impact, in terms of costs, benefits and data protection, of any proposal.

5.5. Different data registration criteria

Divergences between Member States do not just lie in the type of information that their credit registers process. A number of other credit reporting features render difficult the comparison of data across borders.

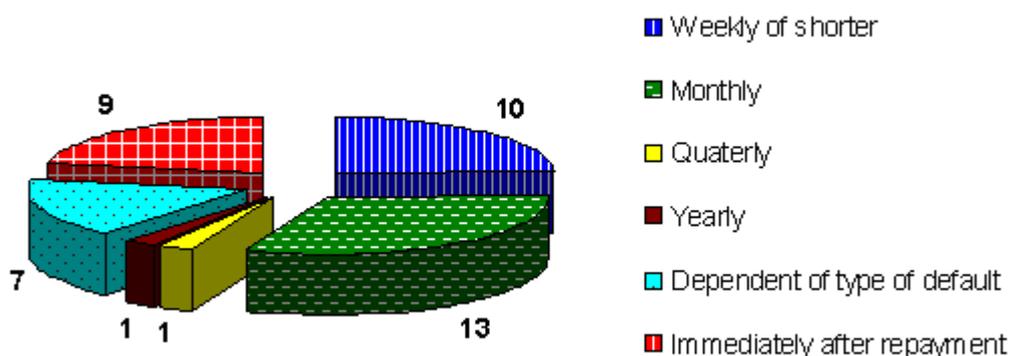
Different definitions are used in the different Member States, for instance, as to what is to be considered payment defaults and delinquencies. For example, in some countries, such as Romania, late payments are registered after 30 days, in others, e.g. Belgium or Lithuania after 3 months/90 days. In some countries, definitions are clarified by law, in others, guidance on the criteria to use (e.g. to determine whether the client is in default) is given to reporting creditors⁴⁰. As such, a consumer classified as 'in default' in one Member State may not necessarily be classified – under the same circumstances – 'in default' in another Member State.

³⁹ If this measure leads to the creation of a common European identification number, conditions and safeguards pursuant to Article 8(7) of Directive 95/46/EC should be envisaged.

⁴⁰ *Data Protection Technical Guidance: Filing defaults with credit reference agencies*, Information Commissioner's Office, UK, August 2007.

Likewise, different reporting thresholds render it difficult to interpret foreign credit data. As shown in Annex 7, these thresholds vary considerably. They tend to be higher in the case of public credit registers⁴¹. A further difficulty is that the types of credit reported may differ between countries. Also, the regularity with which the information is updated can vary considerably. According to a 2007 ACCIS survey, its members report a variety of updating frequencies going up to 'yearly' (see Figure 3). Although in a majority of cases updating takes place at least monthly, in a number of cases the frequency depends on the type of payment default.

Figure 3: Updating frequency (number of ACCIS members)



Source: ACCIS internal survey

Finally, different retention periods (i.e. the time data is stored) may also be an obstacle to cross-border credit data exchange. In some countries, such as Belgium, there is only a retention period of 3 months and 8 days on positive data. In other countries, data is kept for several years and credit registers contain a real 'credit history'. Regarding information on defaults, in some countries the information is kept for one year after having paid the amount due, in other countries the information is deleted immediately after the payment. This can have a great impact on the value of the information obtained from a foreign credit register. (See Annex 4 for an overview of the retention periods per country.)

Standardisation of definitions, thresholds, types of credit reported, retention periods, and update frequency would be the ideal. However, this is not a workable option, at least in the short term. No common view exists on how those data registration criteria should be standardised. Criteria differ for a wide range of reasons, such as the different purposes of the data in credit registers. They are also generally the outcome of a balance of interests and have been fixed sometimes after long discussions at national level.

According to experts, a common understanding on the concepts and definitions used to describe the data collected (e.g. bad debt, arrears, default, loan types...) could be more easily achieved. Experts also believe that common values could be fixed for the exchange of data.

⁴¹ The reason for this is that one of the main purposes for collecting data is to preserve financial stability.

EGCH recommendations

R.19: The EGCH recommends Credit Registers to seek some degree of convergence of the content of their databases at the appropriate time. In particular with reference to the concepts and definitions used (e.g. bad debt, arrears, default, loan types...), as well as to data retention periods. Efforts should take into consideration the cost and benefits of the solutions to be implemented, as well as their impact in terms of data protection.

R.20: The EGCH recommends that:

- Credit Registers develop websites where their basic characteristics are clearly mentioned. Ideally, such websites should contain that information in the local language(s) and in English;
- the Commission develops a portal providing links to the different national Credit Registers' websites.

5.6. Data holder's rights

The rationale for credit registers and data sharing has been explained earlier in this report. Information asymmetry in the lender-borrower relation, however, works two ways. Some EGCH experts have stressed that consumers often do not know what data is stored and exchanged on them, how information is collected and used, and can therefore hardly assess how they are personally affected.

Some consumers may find that the use of credit registers data and scores renders the process more opaque compared to the alternative of making their personal acquaintance. They may feel to be in the best position to give an overview on their financial capabilities at a given point of time. The transparency of assessment processes would therefore seem key. A lack of transparency may translate into a mistrust of the system and might be detrimental to the use cross-border services.

With a view to enabling creditors to effectively and efficiently exploit cross-border credit information and in order to meet the need for transparency for consumers, the creation of a public information source on credit registers operating in Europe could be opportune.

Indeed, consumers have generally an interest in fast and uncomplicated decisions on the one hand, and cheap and reliable prices on the other hand. Both aims are pursued by credit registers, therefore their operation also benefit consumers.

There are also other safeguards, embedded in national and EU laws that guarantee the protection of consumers' rights. These guarantees mainly refer to the need for the borrower to consent to the processing of his/her data and to the means offered to him/her to access and correct the data. (Annex 5 provides an overview per country of the rights typically enjoyed by data holders.)

5.6.1. *The data holder's consent*

It may be argued that a consumer does not have another option other than giving his/her consent to the processing of his/her data if s/he wants to obtain the loan. However, the Data Protection Directive requires that consent is freely given and informed. Different types of consent are usually required in different countries when processing credit data. In the case of positive data or data regulated under banking secrecy, this consent often needs to be explicit⁴².

If consent is an eligible ground to waive banking secrecy, one should bear in mind that this ground might be fragile. When data registration relies solely on the consent of the data subject, the legal consequences of the withdrawal of the consent should be fully examined.

5.6.2. *Remedies available to the data holder if there is a problem*

Data quality is key in order to evaluate the creditworthiness of the borrower. It is therefore important that the consumer can take a close look to his/her data to identify possible errors. However, as explained above, even if the data holders' right to access their information and to correct is universal, the conditions to exercise it differ. In a number of Member States access is free of charge (at least once a year), in others, a fix charge is applied by request, for the rest, the fee will depend on how and in which format the report is delivered⁴³. While access may entail costs, corrections are always for free.

The data holder has also the right to address a complaint to the Data Protection Authority.

EGCH recommendations

R.21: Some EGCH experts recommend that consumers should have an easy way to obtain redress in a cross-border context for the damage suffered due to wrong credit data or to its inappropriate use and/or any other breach of their rights.

R.22: The EGCH recommends that it should be easy for consumers to obtain (from Credit Registers and/or creditors) information about their rights, including on the various redress mechanisms available in case their data is wrong or mis-used.

⁴² On the other hand, the processing of negative data would not require any consent in an important number of cases.

⁴³ In Poland delivery costs of PLN 10 are charged. In Denmark, a report in written form will cost EUR 1.35/page with a maximum of EUR 27.

**Annexes to the Report
of the
Expert Group on Credit Histories**

Annex 1 List of Members and Observers

Members

Name	Organisation
AARNIO Reijo	Finnish Data Protection Office
ASCENZO Maria Pia	Banca d'Italia
BRADFORD Mike*	Association of Consumer Credit Information Suppliers (ACCIS)
CRIVELLARO Piero*	Association of Consumer Credit Information Suppliers (ACCIS)
D'OTTAVIANO-CHIARAMONTI Gregorio	Findomestic Banca spa
DUMINA Baiba**	Latvian National Association for Consumer Protection
HADLOW John	Fair Isaac Corporation
JENTZSCH Nicola	Centre for European Policy Studies (CEPS)
KRISPER Boštjan**	Slovene Consumer Association (ZPS)
LLOYD Andy	Royal Bank of Scotland (RBS)
MARZEC Agnieszka	Polish Credit Information Bureau (BIK)
MEEL Frans	Union Professionnelle du Crédit/Febelfin
METALLINOS Nathalie	Société Générale
MIETKE Stephan	Association of German Banks
MURAILLE Didier	Banque Nationale de Belgique
NERBONNE Sophie	Commission National de l'Informatique et des Libertés (CNIL)
Ó TIGHEARNAIGH Séamus	Irish Credit Bureau Ltd
PAULI Frank-Christian**	Verbraucherzentrale Bundesverband e.V.
SANTILLÁN Ramón	Banco de España
TELES DIAS Luís	Banco de Portugal
VAN LEEUWEN Sjaak	Dutch Credit Register (BKR)

Note: * P. Crivellaro replaced M. Bradford on 18 March 2009. Before that Mr Crivellaro participated as ACCIS observer.

**The three consumer representatives have decided not to endorse the report for reasons related mainly to data protection concerns.

Observers

Private Organisations	Representative	Alternate
European Consumers' Organisation (BEUC)	FILY Anne	BARRAU Emilie
European Banking Industry Committee (EBIC)	VAN DE WERVE Tanguy	HAGENAH Astrid
Association of Consumer Credit Information Suppliers (ACCIS)	CRIVELLARO Piero	---
EU Institutions	Name	
European Central Bank (ECB)	MIKKONEN Katri	
European System of Central Banks (ESCB)	RITTER Michael	
European Data Protection Supervisor (EDPS)	LACOSTE Anne-Christine SCIROCCO Alfonso	

European Commission participants

Role	Name
Chair	MUYLLE Jean-Yves / DUCOULOMBIER Eric (DG Internal Market and Services)
Secretariat	MONTESINOS TRIGO María Dolores / ROBERTSON Jennifer (DG Internal Market and Services)
Other services	BANSARD Karine (DG Competition) DE FRUTOS GOMEZ José Manuel (DG Justice, Freedom and Security) TZVETANOVA Aglika (DG Health and Consumers)

Annex 2 Glossary

This glossary is intended to facilitate the reading of the report by explaining the terms in it. Therefore, the below definitions are not to be understood as globally accepted definitions but as those agreed by experts for some of the technical terms used in this report.

Term	Definition
Arrears	Amounts of principal and/or interest due but not paid as of the reporting date.
Borrower	The natural or legal person that has applied and/or completed a Credit Agreement.
Consent	Any freely given specific and informed indication of the data subject's wishes by which he signifies his agreement to personal data relating to him being processed.
Credit agreement	An agreement whereby a creditor grants or promises to grant to a borrower a credit in the form of a deferred payment, loan or other similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments. (CCD Article 3)
Credit bureau	A privately owned legal entity that processes information on a creditor's clients in order to support creditors in the process of analyzing the client's creditworthiness. Also known as consumer reporting agency (US) and credit reference agency (UK).
Credit institution	(a) an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account; or (b) an electronic money institution within the meaning of Directive 2000/46/EC.
Credit register	Overall term encompassing credit bureaus and public credit registers.
Credit report	The report that details the information which is stored by the credit register on a specific client.
Creditor	A natural or legal person who grants or promises to grant credit in the course of his trade, business or profession. (CCD Article 3)
Creditworthiness	The ability of a specific client to repay credit.
Default	Situation where the borrower fails to meet his or her financial obligations resulting from a credit agreement.
Negative Information	The definition varies from country to country. It generally consists of statements about defaults or arrears and bankruptcies (i.e. facts of contractual non-compliant behaviour). It may also include statements about lawsuits, liens and judgments that are obtained from courts or other official sources. This kind of information may be collected about individuals
Processing of data	Any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction. (DPD Article 2)
Personal Data	Information relating to an identified or identifiable natural person ('data subject'). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity. (DPD Article 2)
Positive Information	The definition varies from country to country. It covers facts of contractually compliant behaviour. It generally consists of assets and liabilities as well as guarantees. It sometimes includes detailed statements about outstanding types of credit, amount of loans and repayment patterns. The extent to which positive information is collected depends on national legislation including the data protection regime.
Public credit register	Registers operated by central banks collecting information from reporting institutions about the indebtedness of borrowers.
Reciprocity	Requirement to supply credit data concerning a credit agreement to the credit register in return for receipt.
Reporting institution	Those institutions that, according to national rules or contractual agreements, transmit personal information on borrowers a credit register.
Scoring	Automated system of rating based on statistical procedures that uses past behaviour and/or characteristics of borrowers with the objective of forecasting their repayment behaviour.

Annex 4 Survey of data retention and regulation

Data retention periods	Austria		Belgium		Bulgaria		Cyprus		Czech Republic		Denmark		Estonia		Finland		France		Germany		Greece		Hungary		Ireland		Italy		Latvia		Lithuania		Malta		Netherlands		Poland		Portugal		Romania		Slovakia		Slovenia		Spain		Sweden		United Kingdom	
	Private	Public	Public	Public	Public	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public						
Courts data	7y	n/a	n/a	n/a	n/a	N	5y	n/a	3y	N	3y	n/a	5y	N	n/a	N	n/a	N	n/a	n/a	N	N	n/a	N	n/a	N	N	n/a	N	N	n/a	N	N	n/a	N	N	n/a	N	n/a	N	n/a	4y	n/a	n/a	3y	8y						
Bankruptcy Data	7y	n/a	n/a	n/a	n/a	N	5y	n/a	5y	2y - 10y	3y	n/a	15y	N	n/a	N	3y	N	n/a	n/a	N	N	n/a	10y	N	n/a	N	n/a	N	n/a	5y	n/a	10y	3y	8y																	
Positive Account Data	3m	n/a	3 m + 8 d**	n/a	n/a	4y	n/a	n/a	N	3y*	n/a	5y	N	5y	3y	3y	N	n/a	n/a	5y	n/a	10y	4y	n/a	4y	n/a	4y	n/a	1y	n/a	10y	3y	8y																			
Enquiry Data	3m	n/a	3y	n/a	n/a	12m	6m	n/a	6m	N	1y	n/a	2y	1y	1y	6m	6M	N	n/a	n/a	N	2y	n/a	1y	4y	n/a	12m	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3y	2y											
Fraud Data	n	n/a	n/a	n/a	n/a	N	n/a	n/a	N	N	3y	n/a	5y	N	n/a	N	n/a	N	n/a	n/a	N	N	n/a	N	4y	n/a	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	8y									
Audit trail data	n	n/a	n/a	n/a	n/a	N	n/a	n/a	N	N	n/a	n/a	5y	N	n/a	N	wtl	N	n/a	n/a	N	N	n/a	10y	4y	n/a	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	8y									

d = days

m = months

y = years

n/a= not available

wtl= without time limit

* after the account has be terminated

** after contractual end date

*** depends of the result of the insolvency procedure. Goes from 2(insolvency declaration), to 8 y(full erasure of debts) up to 10 y(conventional plan, parial debt erasure)

Annex 5 Survey of rights

Rights	Austria		Belgium		Bulgaria		Cyprus		Czech Republic		Denmark		Estonia		Finland		France		Germany		Greece		Hungary		Ireland		Italy		Latvia		Lithuania		Malta		Netherlands		Poland		Portugal		Romania		Slovakia		Slovenia		Spain		Sweden		United Kingdom	
	Private	Public	Public			Private	Private	Private	Private	Public	Private	Public	Private	Private	Private	Private	Public	Public	Private	Public	Private	Private	Private	Private	Private	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public							
Right of access	Y	n/a	Y	n/a	n/a	Y	n/a	n/a	Y	Y	Y	n/a	Y	Y	Y	Y	Y	Y	n/a	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	Y	Y	Y	Y	Y	Y						
Right of free access	Y	n/a	Y	n/a	n/a	N	Y	n/a	Y	Y	N	n/a	Y	Y	N	Y	Y	Y	n/a	n/a	N	Y	n/a	Y	n/a	Y	1x year	n/a	Y	n/a	N	n/a	N	n/a	N	n/a	Y	Y	Y	Y	Y	Y	Y	N								
Right to know who has access to the data and under what conditions	Y	n/a	Y	n/a	n/a	Y	Y	n/a	Y	Y	Y	n/a	Y	Y	Y	Y	Y	Y	n/a	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	Y	Y	Y	Y	Y	Y							
Right to know how data is stored and updated	Y	n/a	Y	n/a	n/a	Y	Y	n/a	Y	Y	N	n/a	Y	Y	Y	Y	Y	Y	n/a	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	n/a	Y	n/a	Y	n/a	n/a	Y	Y	Y	Y	Y	Y							
Right to know who has consulted the	Y	n/a	Y	n/a	n/a	N	Y	n/a	Y	N	Y	n/a	Y	Y	Y	N	Y	Y	n/a	n/a	Y	Y	n/a	N	Y	n/a	N	Y	n/a	N	n/a	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	Y	Y	Y	Y	Y							
Right to correct data information	Y	n/a	Y	n/a	n/a	Y	Y	n/a	Y	N	Y	n/a	Y	Y	Y	Y	Y	Y	n/a	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	Y	Y	Y	Y	Y	Y							
Right to know the purpose of data	Y	n/a	Y	n/a	n/a	Y	Y	n/a	Y	Y	Y	n/a	Y	Y	Y	Y	Y	Y	n/a	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	n/a	Y	Y	Y	Y	Y	Y						
Right to know when scores are used	Y	n/a	n/a	n/a	n/a	N	n/a	n/a	Y	N	N	n/a	Y	N	Y	N	N	N	n/a	n/a	Y	Y	n/a	N	N	n/a	N	N	n/a	N	n/a	N	n/a	Y	n/a	N	n/a	n/a	n/a	Y	N	Y	N	Y	N							
Right to compensation if data mis-used	Y	n/a	N*	n/a	n/a	Y	N*	n/a	Y	N	Y	n/a	Y	N	Y	Y	Y	N	n/a	n/a	Y	N	n/a	N	n/a	N	N	n/a	Y	n/a	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Y	N	Y	N	Y	N	N							

* except court decision
n/a= not available

Annex 6 Survey of services and value added data content

Value added Services from European Bureaus and Registers	Austria		Belgium	Bulgaria	Cyprus	Czech Republic	Denmark	Estonia	Finland	France	Germany		Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Malta	Netherlands	Poland	Portugal		Romania		Slovakia		Slovenia	Spain		Sweden	United Kingdom	
	Private	Public	Public			Private			Private	Public	Private	Public	Private	Private	Private	Private	Public	Public	Private	Private	Private	Private	Public	Private	Public	Private	Public	Private	Private	Public	Private	Private	
Services																																	
New Business Scoring	Y	n/a	N	n/a	n/a	Y	Y	n/a	N	N	Y	n/a	N	N	Y	Y	N	N	n/a	n/a	Y	Y	N	N	Y	n/a	n/a	n/a	N	N	N	Y	Y
Account Management Scores	Y	n/a	N	n/a	n/a	N	Y	n/a	N	N	Y	n/a	N	N	N	Y	N	N	n/a	n/a	N	N	N	N	Y	n/a	n/a	n/a	N	N	N	Y	Y
Fraud file	N	n/a	N	n/a	n/a	n/a	N	n/a	N	N	Y	n/a	Y	N	Y	N	N	N	n/a	n/a	N	n/a	n/a	N	N	n/a	n/a	n/a	N	n/a	N	n/a	Y
Fraud prevention service	N	n/a	N	n/a	n/a	Y	N	n/a	N	N	Y	n/a	Y	N	N	Y	N	N	n/a	n/a	N	Y	n/a	N	N	n/a	n/a	n/a	N	n/a	N	n/a	Y
Tracing service	N	n/a	N	n/a	n/a	n/a	N	n/a	N	N	Y	n/a	N	N	n/a	n/a	N	N	n/a	n/a	N	Y	n/a	N	N	n/a	n/a	n/a	N	n/a	N	n/a	Y

n/a= not available

Annex 7 Data structure, threshold and CBs operations

	Data structure				Threshold (€)		CBs operations			
	PCR		CB		PCR	CB	For creditors only	For Creditors + other service providers	For credit assessment only	For other purposes
	Positive + Negative	Negative only	Positive + Negative	Negative only						
Austria	•		•		350 000	35	•		•	•
Belgium	•				200					
Bulgaria	•		•				•		•	•
Cyprus			•							
Czech Republic	•		•				•		•	
Denmark				•		130			•	
Estonia			•							
Finland				•			•	•	•	•
France		•			500					
Germany	•*		•		1 500 000	100	•	•	•	•
Greece			•				•		•	
Hungary			•				•		•	
Ireland			•				•		•	
Italy	•		•	•	30 000**		•		•	
Latvia	•				150					
Lithuania	•			•						
Luxembourg										
Malta				•						
Netherlands			•			125	•		•	
Portugal	•		•		50		•		•	
Poland			•				•		•	
Romania	•		•				•	•	•	
Slovakia	•		•				•		•	
Slovenia			•				•			
Spain	•		•		6 000		•	•	•	
Sweden			•				•	•	•	•
United Kingdom			•				•	•	•	•

PCR=Public Credit Register

CB=Private Credit Bureau

* Does not cover data on consumers

** No threshold applies to bad debts

Sources: ACCIS, *Fact Sheet*, December 2007. IFC, website: <http://www.ifc.org/ifcext/gfm.nsf/Content/FinancialInfrastructure-PCB-List>; A. Matuszyk and L. Thomas, *The evolution of credit bureaus in European country*, Journal of financial transformation, 2008. T. Jappelli and M. Pagano, *Information sharing in the credit markets: the European experience*, Centre for studies in economics and finance, Salerno, March 2000. N. Jentzsch, *Financial Privacy – An international comparison of credit reporting systems*, Springer – Verlag, Heidelberg, 2nd revised edition, 2007.