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**SUMMARY OF RESPONSES TO THE PUBLIC CONSULTATION
ON THE
REPORT OF THE EXPERT GROUP ON CREDIT HISTORIES**

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1. INTRODUCTION

On 15 June 2009, the European Commission published a public consultation document on the Expert Group on Credit Histories, and invited stakeholders to respond by 31 August 2009. This document is a summary of the contributions received.

The Expert Group on Credit Histories was announced in the Commission Communication on *A single market for 21st century Europe* and the White Paper on the Integration of EU Mortgage Credit Markets. The group was mandated to identify solutions which maximise credit data circulation whilst ensuring a high level of consumer protection (Commission Decision 2008/543/EC of 13 June 2008).

The group gathered 20 experts representing all relevant stakeholders: lenders (5 experts), public credit registers (4), private credit registers (3), consumers (3), data protection authorities (2), a credit scoring company, a pan-European credit register organisation and an academician. The group met eight times between 26 September 2008 and 30 April 2009.

The report of the Expert Group published on 15 June 2009, contained 22 recommendations to optimise the circulation of consumer's credit data within the EU. The Expert Group essentially recommended that an EU central credit data system is not established and Member States remain free to align themselves to an existing or new credit data model.

2. CONSULTATION DOCUMENT

The objective of the public consultation is to collect responses on the recommendations of the Expert Group on Credit Histories from all stakeholders in order to strengthen and deepen the Commission services understanding of the remaining issues surrounding Credit Histories.

3. RESPONSES TO THE CONSULTATION

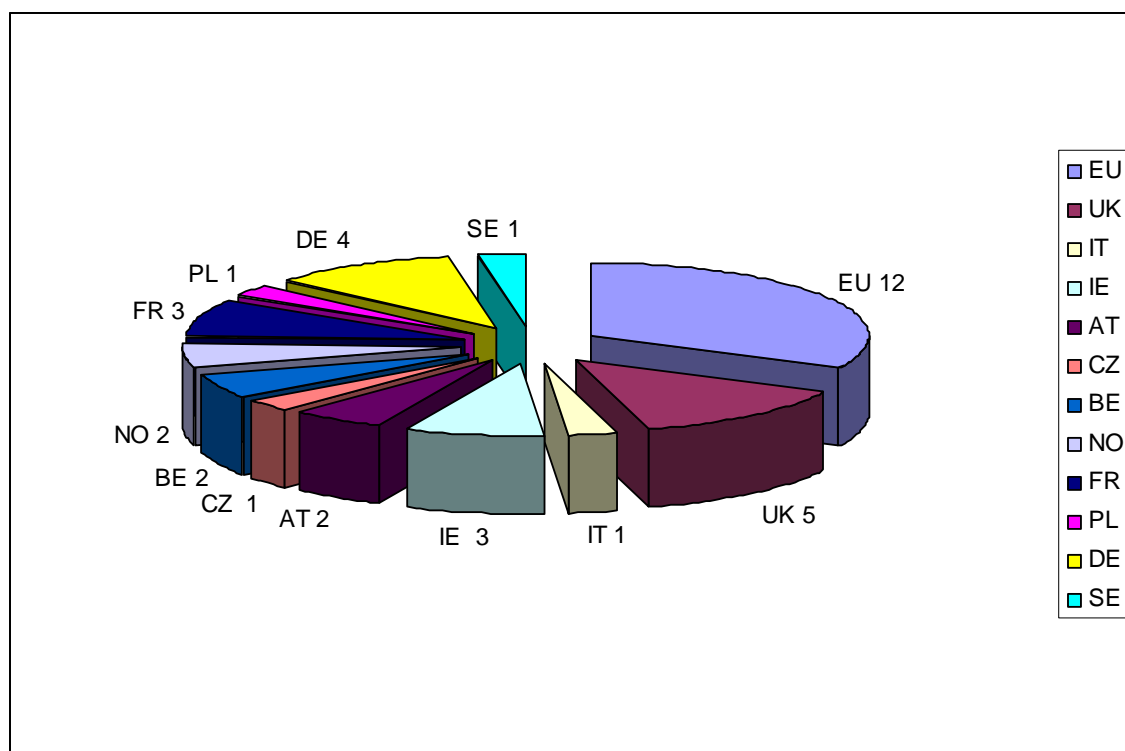
The European Commission received 37 responses to the public consultation. This feedback summary provides a high level overview of the comments made by stakeholders.

The respondents can be classified in eight categories: financial services industry representatives, academic, citizens, consumer advocates, consumer and user representatives, credit reference agencies, credit union and public authorities.

Respondent category	Number of replies	Percentage
Financial Services Industry Representatives	14	38%
Academic	1	3%
Citizens ¹	2	5%
Consumer Advocates	2	5%
Consumer and User Representatives	6	16%
Credit Reference Agencies	3	8%
Credit Union	1	3%
Public Authorities	8	22%
Total	37	

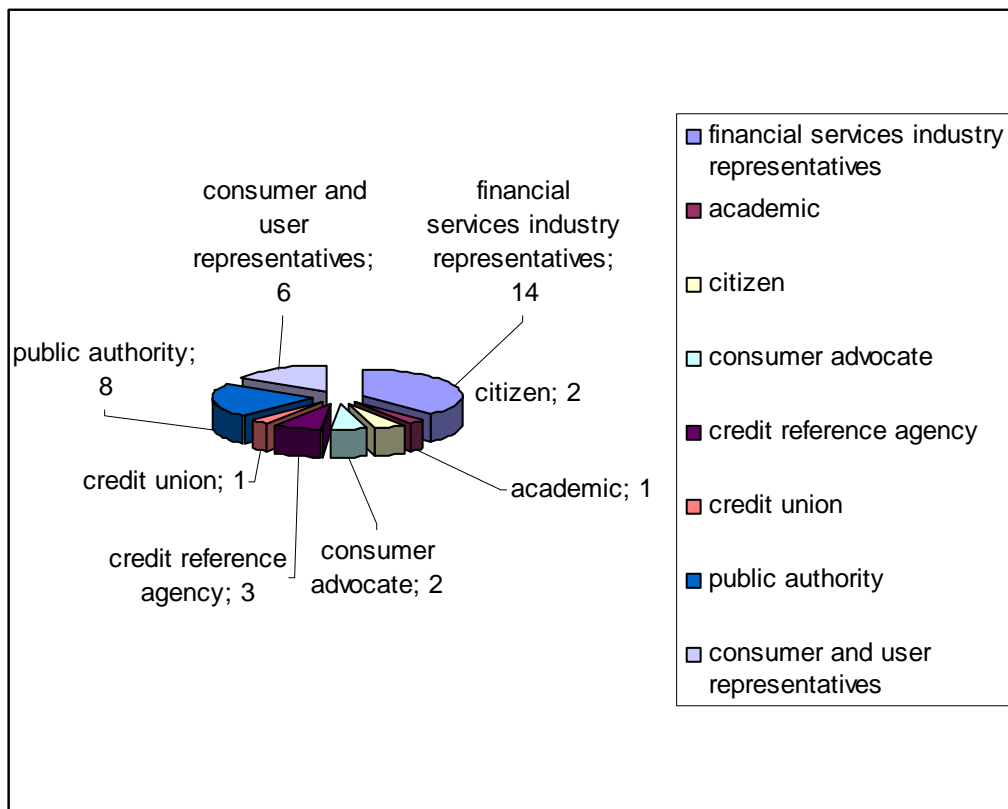
In total contributions were received from stakeholders in ten EU Member States, one EEA member as well as from representative bodies at EU level.

Graph 1: Number of responses received by territorial origin



¹ One citizen respondent was also a member of the Expert Group on Credit Histories.

Graph 2: Number of responses received by category



3.1. General

The majority of the respondents welcome the opportunity to comment on the Expert Group Report. In general the majority of respondents agree with the main recommendation of the Report and reiterate that there is a low level of market demand for cross border retail credit data.

A number of the members of the Expert Group on Credit Histories submitted responses to the public consultation. Two representatives from the financial services industry – who were also members of the Expert Group – express disappointment and regret at the decision of the consumer and user representatives who participated in the Expert Group not to endorse the Report. These consumer and user representatives, who had not endorsed the overall outcome of the Report, express concerns from the point of view of consumers, concerning the overall message of the Report.

3.2. Content of the Responses

Q1: Do you agree with the report's conclusions and recommendations?

A majority of the respondents agree in general with the main recommendations of the Report. In particular, a large majority agree with Recommendation 1; that a single pan-European retail credit register should not be established. The reasons put forward by respondents for this include:

- It is not realistic to establish a pan-European retail credit register as it would entail significant expense and the level of demand for such a service is not currently sufficient to proportionately justify its establishment.
- Consumer demand for a pan-European credit register is unlikely to rise significantly due to language and cultural differences which disincline consumers from cross-border borrowing.
- There is a lack of a proven business case and research data signifying that a pan-European retail credit system is necessary.
- Member States' national credit registers differ in terms of definitions, nature, content and the objectives of data, underpinned by national regulatory systems, rendering a pan-European register impractical.
- Member States should retain independent comprehensive credit registers.
- The loss and risk in terms of individual privacy rights and data protection that the setting up of a pan-European retail credit register would entail would be far greater than the possible benefits.

However, one public authority and one consumer and user representative do support the establishment of an EU-wide system of retail credit registration, at least in the medium to long term, so as to assist the development of the cross border credit market. The consumer and user representative in particular envisages a role for the European Central Bank as a data repository. Other respondents support the idea of further memoranda of understanding and bi-lateral agreements between countries so as to further cross-border credit information sharing in the medium term.

Q2: What other suggestions/recommendations would you have?

Almost all of the respondents made some suggestions or recommendations. Some representatives from the financial services industry suggest that future developments in the area of credit registers should be market driven and subject to rigorous impact assessment including cost/benefit analysis. Some consumer and user representatives suggest the establishment of a lead authority who could ensure data protection standards are met and provide assistance to consumers in a cross-border context. One consumer and user representative suggests that the explicit agreement of consumers should be required at every request for data inclusion.

A few respondents mentioned the issue of a 'right to credit', with some consumer and user representatives recommending that if consumers accurately present their income situation, expenditures and existing obligations, they should have a 'right' to credit whilst representatives from the financial services industry suggest this development would be inappropriate as the decision to lend is a commercial decision and a 'right' would be inappropriate in this context.

Q3: Would you suggest any other data access model for cross-border data exchanges?

Not all of the respondents replied to this question. Of those that did respond, the majority do not suggest another data access model for cross-border data exchange, but rather choose to comment upon existing models. One consumer and user representative does suggest a new model, based on the centralisation of credit data in the European Central Bank. Other consumer and user representatives suggest that the only correct data access model is the direct provision of data from the consumer themselves to a future lender. The consumer is the only one with a right to the credit history and is also better placed to ensure data accuracy and corresponding liability.

Of the respondents who specified their preference concerning the suggested data access models, most consider the indirect access model to be the most suitable, as it allows information to be shared using existing infrastructure. Respondents from the financial services industry reemphasise the importance of allowing creditors a free choice between access models.

Q4: What rights should the data holder enjoy in a cross-border context, in particular regarding access to or data correction? What could help the holder exercise these rights and seek redress in case of breach?

There is wide support from respondents for the right of individuals to access and, if necessary, to correct inaccurate data in credit registers. Easy to use, simple data access processes would also contribute to ensuring accurate and up to date data quality.

In relation to redress mechanisms, some consumer and user representatives and public authorities suggest that measures should include financial penalties and compensation for damage and loss to the consumer where data has been used illegally or improperly. Another suggestion from a consumer and user representative is to sanction wrongdoers via the removal of authorisation to access retail credit data. Respondents from the financial services industry and credit reference agencies point to the existing Data Protection Directive and the consumer redress and access mechanisms already in place, which they consider sufficient.

On the issue of the need for consumers to pay a contribution in requesting access to credit data, there were numerous points of view. Most consumer and user representatives and advocates, oppose a consumer contribution, as some consider the ownership of the data to be vested in the data subject and therefore the notion of a contribution to access as repugnant. Others suggest that free access could be limited to once per year as a measure to prevent abuse. One credit reference agency points to the necessity of charging consumers, as the payment process itself is often used by them to ensure the identification of the data subject when requesting records.

One citizen² recommends that data holders should have rights equally across access channels such as for example internet, mail etc.

Q5: The expert group recommends a greater convergence of the content of credit databases. For which aspects this convergence should be achieved?

The majority of respondents agree that, at least to some degree, greater convergence or harmonisation of credit databases should be achieved. Standardisation of certain concepts and definitions and consistency in terms of the scope of data and its purpose should be achieved so as to ensure that data can be easily understood and used fairly and objectively.

Respondents have diverging views concerning the type of data that should be stored in credit registers. In most consumer and user representatives view, data should be limited to negative data, as positive data is better provided by the data subject personally. A few consumer and user representatives argue that positive credit data does not assist in credit assessment, as an inability to repay a debt is much more likely to be have been caused by a social incident such as unemployment or divorce which cannot be predicted. Consumer advocates and consumer and user representatives also cite data protection concerns. In contrast, many financial services industry respondents and some consumer and user representatives specify the need for both positive and negative data so as to have as robust a system of credit recording as possible. Some respondents believe that the European Commission should take the lead in defining a common minimum set of data to be reported to the credit registers and made available to creditors. One public authority suggests that the European Commission could produce a glossary of terms based on the glossary contained in the Expert Report as an initial step towards convergence of contents of credit databases.

Some financial services industry representatives state that it is unlikely that greater convergence in the content of databases, such as the harmonisation of variable terms, will lead to a growth in cross-border credit due to continued cultural differences.

Q6: What solution would you suggest in order to solve, in a cross-border context, the identification problems described in the report?

Not all of the respondents answered this question.

A consumer and user representative and a consumer advocate state that identification can be satisfactorily established through the presentation of a current passport from which non-essential information could be 'blacked out' to protect consumers' privacy.

² Also a member of the Expert Group on Credit Histories.

There is support from the financial services industry for the introduction of a pan-European identifier number. However, there is also an acknowledgment of the political problems that such a project could entail. One citizen³ recommends the assignment to consumers of a number for use when they are applying for credit abroad, that could also be utilised to facilitate general financial services mobility such as the portability of bank accounts. Some public authorities oppose the introduction of identification numbers and one warns that they are a particular risk in the context of identity theft.

4. CONCLUSION

The European Commission will draw on the responses to the public consultation of the Expert Group on Credit Histories to support the analysis of various policy considerations in relation to Responsible Lending and Borrowing, a policy decision on which is anticipated in early 2010.

³ Also a member of the Expert Group on Credit Histories.