

Bruxelles, 28 March 2004

EURO COOP Comments to the IFF Report Monitoring the Update & Effectiveness of the Voluntary Code of Conduct on Pre-contractual Information for Home Loans

Consumers and Home Loans

"Buying a flat or a house is often the most expensive financial commitment people ever make." This was the statement of European Commissioner for the Internal Market Frits Bolkestein in launching the Voluntary Code of Conduct on Pre-Contractual Information for Home Loans on 5 March 2001¹.

EURO COOP fully agrees with this statement - given the amount of money and long time periods involved, taking-out a mortgage is for many European consumers the single most important financial decision of their lives. Moreover, as a result of increasing property prices², mortgages involve ever-larger amounts of money and ever-longer lengths of time³, with mortgage repayments constituting the single most important outgoing for European consumers throughout most of their working lives.

As a European Consumer Organisation, EURO COOP has always defended the right of European consumers to be able to access the necessary information in order to allow them to make informed choices.

In the case of home loans, and especially given the important amounts of money and time periods involved, consumers must have easy access to clear, concise and standard information in order to allow them to compare different mortgage offers so they can take the mortgage decision that best suits them and their circumstances.

Background to the Code of Conduct on Home Loans

The "Voluntary Code of Conduct on Pre-Contractual Information for Home Loans" was subscribed to by five European Consumer Organisations - including EURO COOP - and five European Credit Sector Associations (ECSA) on 5 March 2001. The Code was the fruit of several years' discussions between representatives of consumer and credit sector organisations and the European Commission. The Code was published by the Commission as a Recommendation on 1 March 2001 addressed to Member States and all lenders offering home loans⁴ with a deadline for implementation by 30 September 2002.

The aim of the Code was to make it easier for consumers to compare loan products available from different lenders, including lenders from another Member State, and so allow consumers to make an informed choice.

In particular, credit institutions subscribing to the Code are obliged to provide to consumers:

- General information on home loans on offer;
- Personalised information at a pre-contractual stage via a "European Standardised Information Sheet".

The Commission is responsible for monitoring implementation of the Code, and in particular its effectiveness two years after adoption, i.e., 2003. In launching the Code in 2001, European Commissioner for Health and Consumer Protection David Byrne said the Code "...will be the real test of the efficiency of self-regulatory instruments like this voluntary agreement... The main criterion for deciding whether it is appropriate in this area must be how it actually works - otherwise public authorities will have to consider more binding instruments."⁵

The Commission respected its commitment in carrying-out a monitoring of the Code - the results of which are contained in a detailed report by the "Institut für Finanzdienstleistungen"⁶.

¹ Commissioner Bolkestein statement: http://europa.eu.int/comm/internal_market/en/finances/consumer/homeloans.htm

² In Ireland real property prices increased by 152% between 1995-2002 (Source: The Economist, 31 May 2003).

³ In Portugal 40-year mortgages are now on offer.

⁴ For further information, see http://www.europa.eu.int/comm/internal_market/en/finances/consumer/homeloans.htm

⁵ See Commissioner Byrne Speech at: http://europa.eu.int/comm/internal_market/en/finances/consumer/homeloans.htm

⁶ Report available at: http://europa.eu.int/comm/consumers/cons_int/fin_serv/loans/documents/survey_report.pdf

EURO COOP is the European Community of Consumer Co-operatives, whose members are the national organisations of consumer co-operatives in 11 EU Member States and in three future Member States. Created in 1957, EURO COOP today represents over 3 200 regional and local consumer co-operatives, with over 20 million consumer-members.

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IFF Report Findings

The main findings of the IFF Report can be summarised as follows:

- 6.5% of institutions surveyed provided all the general information required under the Code,
- 5% provided all the correct personalised information,
- 53% of consumers surveyed did not receive any pre-contractual information.

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Methodology

In general, EURO COOP finds that the evaluation of the application of the Code was somewhat skewed:

Firstly, the remit of the analysts was to survey application of the Code by those credit institutions that signalled implementation, i.e., those credit institutions not applying the Code were not surveyed. While this approach respects the letter of the Code, it does not necessarily give an accurate picture of the true level of information provided to most consumers on the ground.

Secondly, in three of the largest Member States (France, Spain and the United Kingdom), credit institutions do not apply the Code. As a result, 42% of European consumers are automatically excluded from its protection.

Results

Even allowing for the important caveats relating to the methodology, the findings remain clearly disappointing, namely 6.5% and 5%.

When allowing for the fact that the Code is not applied in three of the most populous Member States, and the limitation that only banks claiming to apply the Code were surveyed, the true level of implementation across Europe on the ground is probably closer to 2-3 % or even less.

EURO COOP finds the fact that almost half of European consumers are not covered by the Code goes against the very spirit of a "European" Code. The Code does not therefore meet the objective of ensuring a "High, common level of Consumer Protection" as per the Commission Consumer Policy Strategy 2002-06.

Conclusions

Bearing in mind that hundreds of millions of consumers, trillions of euro⁷ and many man-decades are involved in mortgage credits, EURO COOP believes that a greater effort should have been made on the part of credit institutions to ensure that consumers have easy access to clear, concise and standard information in order to allow them compare different mortgage offers so they can take the mortgage decision that best suits them and their circumstances.

EURO COOP agrees with the assessment of Commissioner Byrne that "...the evaluation does not bode well for the image of self-regulation in the field of financial services⁸." Banks clearly and overwhelmingly failed to implement the Code, despite having over two years to do so.

As a signatory organisation, EURO COOP is disappointed at the results, especially given the years of discussions in good faith devoted to the drafting of the Code. EURO COOP will therefore be more circumspect in future about negotiating such Codes of Conduct.

EURO COOP finds that the clearly disappointing levels of implementation of this Code point to a need for more binding measures on home loans in order to provide European consumers with the high, common level of consumer protection they deserve in this important area.

More generally, the results highlight the potential limitations of Codes of Conduct as a mean of consumer protection, especially where such Codes do not provide for sanctions in cases of non-compliance.

⁷ EMF, "Mortgage Credit in 2001-2002": end-2001, mortgage loans in Europe totalled €3 900 000 000 000.

⁸Speech to EMF: http://europa.eu.int/comm/consumers/cons_int/fin_serv/loans/documents/byrne.pdf